

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF DELAWARE

3  
4 STEVEN G. MILLETT,

5 MELODY J. MILLETT,

6 On Behalf of themselves

7 And all others similarly situated,

8 Plaintiffs,

9 vs. No. 05-599-SLR

10 TRUELINK, INC.,

11 A Trans Union Company,

12 Defendant.

13  
14  
15 VOLUME II

16  
17 CONTINUED DEPOSITION OF MELODY J.

18 MILLETT, a Plaintiff, taken on behalf of the

19 Defendant before Nissa M. Sharp, CSR, CCR #528,

20 pursuant to Notice on the 13th of July, 2007, at

21 the offices of CLOON LAW FIRM, One Hallbrook

22 Place, 11150 Overbrook Road, Suite 350, Leawood,

23 Kansas.

24

25

## 1 APPEARANCES

2 Appearing for the Plaintiffs was MS. B.

3 JOYCE YEAGER of YEAGER LAW FIRM, LLC, City  
4 Center Square, 26th Floor, 1100 Main Street,  
5 Kansas City, Missouri 64105.

6 Also appearing for the Plaintiffs was

7 MR. BRYSON R. CLOON of CLOON LAW FIRM, One  
8 Hallbrook Place, 11150 Overbrook Road, Suite  
9 350, Leawood, Kansas 66211.

10 Appearing for the Defendant were

11 MR. MICHAEL O'NEIL and MS. HEATHER SCHUMAN of  
12 DLA PIPER US, LLP, 203 North LaSalle Street,  
13 Suite 1900, Chicago, Illinois 60601-1293.

14 Also present was Lisa Hargis of MCR

15 VIDEO.

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(Original Exhibits 23 through 37 were  
filed with the original transcript.)

(The deposition commenced at 9:35 AM.)

1 VIDEOGRAPHER: This is Volume 2  
2 of the videotaped deposition of Melody Millett  
3 in Case No. 05-599-SLR taken this 13th day of  
4 July 2007. We're now on the record. The time  
5 is 9:35 AM.

6 Will counsel please state their  
7 appearances for the record?

8 MS. YEAGER: Joyce Yeager,  
9 attorney for Plaintiff.

10 MR. CLOON: Bryson R. Cloon,  
11 attorney for Plaintiff.

12 MR. O'NEIL: And on behalf of the  
13 Defendant, Michael O'Neil and Heather Schuman.

14 VIDEOGRAPHER: Will the court  
15 reporter please swear in the witness?

16 MELODY MILLETT,  
17 being first duly sworn, testified under oath as  
18 follows:

19 CONTINUED EXAMINATION

20 BY MR. O'NEIL:

21 Q. Good morning, Mrs. Millett.

22 A. Good morning, Mr. O'Neil.

23 VIDEOGRAPHER: Sorry to  
24 interrupt, but someone has a Blackberry or a  
25 cell phone that needs to be turned off, please,

1 it's interfering with the audio. Thank you.

2 MR. CLOON: Okay, Heather.

3 (Off the record.)

4 Q. (BY MR. O'NEIL) Mrs. Millett, since you  
5 were last -- had your deposition taken in this  
6 case, you had an opportunity to review the  
7 transcript of your prior deposition, right?

8 A. Yes.

9 Q. Okay. And you reviewed it; is that  
10 correct?

11 A. Yes.

12 Q. And you noted some misspellings in the  
13 transcript, correct?

14 A. Yes.

15 Q. But, otherwise, the testimony you gave  
16 that day was accurate, right?

17 A. Yes.

18 Q. Okay. Have you reviewed any documents,  
19 Mrs. Millett, in preparation for your testimony  
20 today?

21 A. I've reviewed my deposition. I have  
22 worked on this case in preparation for I think  
23 other depositions, so I've been in other TU  
24 documents or whatever over the last few weeks.  
25 But, I mean, it wasn't specifically prepared for

1 this deposition.

2 Q. What other depositions occurred that  
3 you were working on, as you just referred to?

4 A. I believe my attorneys went and took  
5 two depositions from your clients.

6 Q. Okay. So, you were reviewing documents  
7 to assist your lawyers in preparing for those  
8 depositions?

9 A. Yes.

10 Q. Okay. And have you seen the  
11 transcripts of the depositions of the two  
12 TrueLink employees?

13 A. They were sent to me, but I haven't had  
14 time to review those yet.

15 Q. Aside from your attorneys, have you had  
16 conversations with anybody regarding your  
17 testimony today?

18 A. No.

19 Q. Aside from your attorneys, have you had  
20 conversations with anybody else about your prior  
21 testimony in this case?

22 A. No. Other than, you know, my husband,  
23 and I might have discussed with him.

24 Q. Did you?

25 A. I mean, I don't specifically recall if

1 I did or didn't. I mean, if we did, it was a  
2 general conversation.

3 Q. But as you sit here, you don't recall  
4 having any conversations with your husband about  
5 your testimony in this case?

6 A. I mean, we might have discussed in  
7 general terms.

8 Q. Yeah, I understand that you might have,  
9 but do you recall having any conversations to  
10 that -- in that regard?

11 A. I don't recall specifically having  
12 them, but I'm not going to say that they didn't  
13 happen is what I'm saying.

14 Q. Since you had your deposition taken on  
15 May 3rd, has there been any changes in your  
16 employment?

17 A. No.

18 Q. Since your deposition on May 3rd, have  
19 you moved your home residence?

20 A. No.

21 Q. And your marital status remains the  
22 same since May 3rd, right?

23 A. Yes.

24 Q. Okay. When is the last time you  
25 visited the True Credit website?

1           A.    I don't know.  It's been quite a while.  
2           I think I was -- last time was over when I went  
3           over to my attorney's house to review documents  
4           during the prep for the depositions.  I believe  
5           we went out and looked at some things on the  
6           True Credit website on that day.

7           Q.    And you --

8           A.    But I don't specifically recall what  
9           day that was.

10          Q.    Was it since May 3rd?

11          A.    Yes, that would be since May 3rd, but I  
12          don't remember exactly what day it was.

13          Q.    Do you recall seeing any statements on  
14          the TrueLink website regarding the credit  
15          monitoring product that you thought were  
16          inaccurate?

17          A.    I don't recall specifically what I was  
18          looking at, so I couldn't say one way or the  
19          other.

20          Q.    Well, obviously you understand that  
21          some of the allegations that you and your  
22          husband are making in this case are that True  
23          Credit misrepresented the credit monitoring  
24          product, right?

25          A.    Yes, that's correct.



1 Q. When was the last time you recall  
2 seeing something on the True Credit website that  
3 you believe supported your contentions that True  
4 Credit continues to misrepresent the credit  
5 monitoring product?

6 A. I don't understand the question --

7 Q. Okay.

8 A. -- the way that it's phrased.

9 Q. It was a long one. I understand that  
10 you reviewed the True Credit website in August  
11 of 2003 when you first bought the product on  
12 behalf of your husband, right?

13 A. Yes.

14 Q. And, at that time, you saw some  
15 representations that you thought -- that you  
16 later determined that you thought were  
17 inaccurate, right?

18 A. Yes, that would be true.

19 Q. Since that time, since August of 2003,  
20 did you ever go back to the site and see either  
21 the same or different representations which you  
22 believed were inaccurate?

23 MS. YEAGER: Objection. Asked  
24 and answered in the first deposition. You may  
25 answer.

1 A. Yes, I have.

2 Q. (BY MR. O'NEIL) Okay. And when was the  
3 last time you recall seeing those  
4 representations?

5 A. I couldn't specify a date, I would have  
6 to say probably somewhere in the 2005 time  
7 frame, or whatever, would be the last time that  
8 I actually, you know, looked at those  
9 representations.

10 However, the website would not be the  
11 only place that some of those misrepresentations  
12 are being made. Some of them are being sent  
13 directly to my mailbox, and I believe those  
14 e-mails were produced.

15 Q. Have you purchased any products from  
16 TrueLink since May 3rd of this year?

17 A. No, not that I know of.

18 Q. Have you purchased any products from  
19 Equifax since your last deposition date?

20 A. No.

21 Q. Have you purchased any products from  
22 Experian?

23 A. No.

24 Q. Have you purchased any credit products  
25 from any company since the first of this year?

1 MS. YEAGER: Objection. Vague.

2 A. Well, I believe the monitoring  
3 subscription for TU and the credit reports that  
4 are provided therein were still going on after  
5 the first of this year.

6 As far as Equifax, I believe it was  
7 discontinued some time last year, and whenever  
8 it's subscription ran out is whenever its  
9 subscription ran out.

10 The Experian subscription I believe has  
11 been terminated since some time in 2004. I have  
12 ordered some annual disclosures, which may have  
13 come from either TransUnion, Equifax or  
14 Experian, but those were not purchased, those  
15 were my free annual disclosures.

16 Q. So, other than what you just described,  
17 you haven't made any other purchases from any  
18 other companies since the first of this year?

19 A. Other than -- I'm confused because so  
20 many things get into credit products and -- or  
21 are considered credit reporting type products.

22 Q. Okay.

23 A. So, you know, I've bought, for example,  
24 they have a Social Security number locator  
25 product that comes from First Public Records,

1 for example. That's based on a credit report  
2 data. It might be considered a credit report, I  
3 don't know. But it's not from one of the three.

4 Q. And what was the purpose for that  
5 purchase -- I'm sorry, what was the purpose for  
6 that purchase?

7 A. To find out if there was a new alias  
8 attached to my husband's Social Security number.

9 Q. And what did you learn?

10 A. I haven't seen one, no.

11 Q. Okay. And when did you make that  
12 purchase?

13 A. I don't specifically recall. It was  
14 some time in the first quarter.

15 Q. Have you learned any facts since May  
16 3rd of this year which you believe further  
17 support your claims in this lawsuit?

18 A. I don't think that there are any  
19 additional facts to be learned that aren't  
20 already out there in the marketplace.

21 (M. Millett Exhibit 23 was marked  
22 for identification by the reporter.)

23 Q. (BY MR. O'NEIL) So, I assume that means  
24 your answer is no then, that you haven't learned  
25 any facts since May 3rd of this year that

1 support your claims?

2 A. No.

3 Q. Okay. Mrs. Millett, I'm going to hand  
4 you what's been marked Exhibit No. 23, which I  
5 believe are documents produced by your counsel  
6 in this case, although to be honest I'm not  
7 sure. Is that your signature on the second page  
8 of Exhibit No. 23?

9 A. Yes.

10 Q. Okay. And do you recall signing this  
11 Declaration in support of your Motion For Class  
12 Certification?

13 A. Yes.

14 Q. And that was in the case that you  
15 brought against Experian, correct?

16 A. Yes.

17 Q. Okay. To your knowledge, has the court  
18 ruled on that Motion For Class Certification?

19 A. I don't believe so. But they may have  
20 ruled on it and it was not -- I know portions of  
21 the case were dismissed and portions are being  
22 -- the portions of the dismissal are being  
23 appealed.

24 Q. Well, there was a motion for  
25 reconsideration filed and that was denied,

1 right?

2 A. Yes.

3 Q. Okay. Is there any further appeal  
4 going on to your knowledge?

5 A. What do you mean?

6 Q. Well, I'm asking, you know --

7 A. I --

8 Q. My understanding is the next appeal  
9 would be to the appellate court. There's been  
10 no appeal filed to the Ninth Circuit, has there?

11 A. I don't believe it's been filed yet,  
12 but I think that it's in preparation.

13 Q. Okay. In Paragraph 3 of your  
14 Declaration, Mrs. Millett, there is a reference  
15 to a group called the Identity Theft Resource  
16 Center. Do you see that?

17 A. Yes, sir.

18 Q. And what is the Identity Theft Resource  
19 Center?

20 A. It's a nonprofit identity theft  
21 advocacy group.

22 Q. And is this the group that is headed up  
23 by I believe in your earlier testimony you  
24 referred to Linda and Jay Foley?

25 A. Yeah.

1 Q. Okay. And you have spoken to -- have  
2 you spoken to either Linda or Jay Foley?

3 A. Yes. On several occasions.

4 Q. Okay. And you spoke to them about  
5 Mr. Abundio's misuse of your husband's Social  
6 Security number?

7 A. Yes, I have.

8 Q. Okay. And what else have you spoken to  
9 Mr. and Mrs. Foley about?

10 A. Well, that was predominantly it. I met  
11 them originally in the very beginning.

12 Q. Have you ever told either Linda or Jay  
13 Foley that you and your husband -- you and your  
14 husband have filed civil lawsuits?

15 A. Yeah, I believe they know that. I  
16 mean, it was in the media.

17 Q. Well, did you ever have conversations  
18 with them about that?

19 A. In a general sense, yeah. But not in a  
20 specific sense, no.

21 Q. What did you tell them in a general  
22 sense?

23 A. Well, I mean they might have asked, you  
24 know, they might have asked like when they saw  
25 the article from the "Kansas City Star," for

1 example, you know, which lawsuits we filed, so  
2 which parties were in the lawsuit, that's about  
3 it.

4 Q. And that was back in the summer of  
5 2004, right?

6 A. I believe so.

7 Q. So, it's your understanding that they  
8 learned about your lawsuits through the media?

9 A. Well, I sent them the article myself.

10 Q. Oh, okay. Have you ever asked the  
11 Identity Theft Resource Center for any kind of  
12 assistance in the prosecution of your various  
13 lawsuits?

14 A. No.

15 Q. Okay.

16 A. They're not involved in that.

17 Q. Have you ever asked the Identity Theft  
18 Resource Center for information about identity  
19 theft?

20 A. Yeah, we've talked about various  
21 aspects of identity theft, you know, different  
22 types of identity theft, you know, what they  
23 are. I've worked on some surveys and stuff for  
24 them and different stuff like that. So, I  
25 haven't like asked them to come and, you know,



1 be a -- I don't know what's the word --  
2 witnesses or expert testimony or any of that  
3 kind of thing.

4 Q. Why not?

5 A. Huh?

6 Q. Why not?

7 A. I just haven't done it.

8 Q. Okay. Have you talked to anybody,  
9 aside from your attorneys, have you talked to  
10 anybody about the possibility of them providing  
11 opinion testimony in any of your lawsuits?

12 A. I haven't specifically talked to anyone  
13 about providing, that's a legal function. I  
14 mean, I know my lawyers have had conversations  
15 with people.

16 Q. But you haven't had conversations with  
17 anybody about these lawsuits for the purpose of  
18 exploring whether or not they can assist you,  
19 aside from your attorneys?

20 A. I'm sorry, I don't understand the  
21 question.

22 Q. Okay. Aside from your attorneys, is it  
23 your testimony that you haven't talked to  
24 anybody else about possibly assisting in the  
25 prosecution of your lawsuits?

1 A. I don't understand the question.

2 Q. Okay. I think you -- you understand  
3 that in litigation the parties can retain  
4 purported experts to provide opinion testimony  
5 at trial. Do you understand that?

6 A. Yes, I do.

7 Q. Okay. Have you had any conversations  
8 with anybody to explore the possibility of them  
9 providing those types of services to you and  
10 your lawyers?

11 A. That would not be something that I've  
12 engaged in, no.

13 Q. Okay. Did you ever consider reaching  
14 out to the Identity Theft Resource Center for  
15 that purpose?

16 A. I'm sorry, I don't understand the  
17 question.

18 Q. I'll restate it. Have you ever  
19 considered reaching out to the Identify Theft  
20 Resource Center to see how they could help you  
21 in your lawsuits?

22 A. I don't understand the word "consider."

23 Q. Okay. Think about. I think it's your  
24 testimony that you never asked the Identity  
25 Theft Resource Center for assistance in the

1 litigation; is that right?

2 A. Yes.

3 Q. Okay. Have you ever considered it,  
4 thought that maybe you should do that?

5 A. I've thought about it, but I've not  
6 discussed that with anybody.

7 Q. Okay. And you ultimately decided that  
8 you weren't going to ask the Identity Theft  
9 Resource Center, or the IRTC (sic), to assist  
10 you in that regard?

11 A. That wouldn't -- I don't understand the  
12 question.

13 Q. Okay, it's really simple. You've  
14 testified that you considered and you thought  
15 about the possibility of reaching out to the  
16 IRTC -- actually, it's the ITRC, and to see if  
17 they could help you in the litigation, right?

18 A. I mean, I've thought about it in my  
19 mind.

20 Q. Okay.

21 A. I mean, you know, but that's -- I mean,  
22 to the extent that someone thinks about  
23 something, that's not --

24 Q. Okay.

25 A. -- that's not action.

1 Q. And is it fair to say that you decided  
2 not to ask them to assist in that regard?

3 A. Well, you speak like the case is closed  
4 or like I might never do that, so I'm not -- I'm  
5 confused as to the question.

6 Q. Well, obviously I'm not asking you  
7 about your future thoughts, Mrs. Millett. I'm  
8 asking about whatever thoughts you've had as of  
9 today right now.

10 A. Well, as of today right now, I have no  
11 plans and no intentions of doing so.

12 Q. Okay. And why did you make that  
13 decision to date?

14 A. Because I haven't felt like I've needed  
15 it.

16 Q. Okay. Do you understand that there is  
17 a deadline for the disclosure of experts in this  
18 case?

19 A. I understand that. Yes.

20 Q. Do you know when it is?

21 A. I believe probably it's, what, in the  
22 next few weeks or so.

23 Q. Uh-huh. Your Declaration, Exhibit 23,  
24 states that you are the state representative for  
25 Kansas.

1 A. In 2006, that was true.

2 Q. And just so the record is clear, that  
3 you -- in 2006, you said that you were the state  
4 representative for Kansas for the Identity Theft  
5 Resource Center, right?

6 A. Uh-huh. Uh-huh.

7 Q. And that was true, right?

8 A. Yes, that was true.

9 Q. Okay. It's no longer true?

10 A. No, it's not that it's not no longer  
11 true, it's that I'm not actively working in that  
12 type of role at this point in time.

13 Q. Okay.

14 A. Which is, you know, helping other  
15 victims and helping people resolve their -- I  
16 just have too much on my plate.

17 Q. Okay.

18 A. And --

19 Q. I'm sorry.

20 A. And since it's free, you know, it's not  
21 like I'm getting paid, so.

22 Q. But at some point in time you were  
23 playing more of an active role as a Kansas state  
24 representative?

25 A. Yeah, I was helping them with, you

1 know, surveys and other type of stuff, and local  
2 victims were needed and we were doing training  
3 and different stuff.

4 Q. So, you have met with other victims of  
5 identity theft?

6 A. I'm sorry?

7 Q. Have you met with other victims of  
8 identity theft in connection with being a state  
9 representative for the group?

10 A. It's predominantly e-mail and phone.

11 Q. Okay. What's -- what kind of surveys  
12 have you assisted the group with?

13 A. I have looked at and done some work on  
14 the aggregation of survey results from the  
15 Annual Victims Survey from I believe it was 2004  
16 I worked on and -- but that was in 2005.

17 Q. And what was the subject matter of the  
18 questions which were part of this survey?

19 A. It was a victims survey, you know, for  
20 example, if someone stole -- when someone stole  
21 your identity, how many times was it used, how  
22 many credit cards were opened, that kind of type  
23 of information.

24 It's -- in my specific field of  
25 employment when I worked in HR, I did a lot of

1 employment surveys and statistical analysis, so  
2 it's basically in my field of expertise.

3 Q. And have any of the results -- have any  
4 of the results of the surveys that you assisted  
5 with been published?

6 A. I'm not sure, but I believe the Victims  
7 Survey was. My job was to take the results that  
8 they got from the survey and to present them in  
9 a dec, in a meaningful way.

10 Now, I provided the information in an  
11 Excel workbook, lets just say, to Linda and Jay,  
12 it was e-mailed to them. What they ever did  
13 with it, whether they showed it to anybody or  
14 whether it was ever published or utilized, I  
15 have no idea.

16 Q. And when you say a dec, is that a power  
17 point presentation?

18 A. No, it's an Excel spreadsheet. It's  
19 aggregated statistics.

20 Q. Paragraph 3 of your Declaration,  
21 Mrs. Millett, says that you've submitted written  
22 testimony to Congress on two separate occasions.

23 A. Yes.

24 Q. And one was through Representative  
25 Dennis Moore's office?

1 A. Yes.

2 Q. Is that the statement that we reviewed  
3 earlier in your earlier deposition?

4 A. Yes.

5 Q. Okay. And then the second, you also  
6 said that you presented testimony to Congress  
7 through the Identity Theft Resource Center,  
8 correct?

9 A. Correct.

10 Q. Could you explain that to me how you  
11 did that?

12 A. Identity Theft Resource Center took  
13 victims' statements in an anonymous format and  
14 presented them in testimony that went to  
15 Congress. So, I mean, if I went through like,  
16 for example, the whole thing, I could pick out  
17 the pieces that included, for example, my  
18 husband and myself.

19 Q. Okay. And have you ever done that for  
20 purposes of producing documents in this lawsuit?

21 A. I'm sorry?

22 Q. Have you ever done that for the purpose  
23 of producing documents in this lawsuit?

24 A. It was not presented as media as such,  
25 so it's not -- it's not individually mine.



1 Q. So, you made a decision that you didn't  
2 have to do that then?

3 A. Well, I guess so, yes.

4 Q. Okay. And when did you prepare that  
5 testimony, if you will?

6 A. There wasn't any prepared testimony.  
7 There was conversations with the victims  
8 advocate in San Francisco and a few other people  
9 that were exchanged by e-mail and were sent and  
10 aggregated up and presented in whatever their  
11 story was.

12 They went to go talk about Social  
13 Security numbers, and the FACTA Act and some  
14 other things I believe in late 2004, I believe  
15 that's when it was.

16 Q. When did you first become the state  
17 representative for Kansas for this group?

18 A. Well, I was in -- I was the only person  
19 in Kansas that was affiliated with the group, so  
20 it was by default. The idea was that they  
21 wanted to have at least one resource that they  
22 could use for volunteer work in every state in  
23 the United States.

24 Q. And when did that occur?

25 A. I first started working with them on a

1 regular basis in -- I was familiar with them  
2 before then, but, I mean, as far as that was  
3 concerned and working on specific tasks if  
4 requested and stuff was in 2004.

5 Q. Do you believe that the Identity Theft  
6 Resource Center provides valuable services to  
7 the affected public?

8 A. Yes, I do.

9 Q. Do you think that they're a good  
10 resource for information about identity theft?

11 A. I think they're one of the best.

12 Q. Okay. What other resources or other  
13 groups out there that you think are also helpful  
14 in providing information about identity theft?

15 A. The FTC.

16 Q. Okay. Any other groups, Mrs. Millett?

17 A. No.

18 Q. You're aware of other groups that offer  
19 educational and other informational services  
20 about identity theft, right?

21 A. Oh, yes, I'm aware. Uh-huh.

22 Q. But really it's the FTC and the  
23 Identity Theft Resource Center which you think  
24 are the most authoritative?

25 A. I would say that they are the most

1 knowledgeable.

2 Q. Okay. Can you identify any individuals  
3 which you believe are similarly knowledgeable  
4 about the topic of identity theft?

5 MS. YEAGER: Objection. Vague.

6 A. I mean, individuals like as in how?

7 Q. (BY MR. O'NEIL) Well, I think before  
8 we're talking about groups, now I'm talking  
9 about people, individual persons.

10 A. Well, I would say Jay and Linda Foley  
11 are fairly knowledgeable. I would say, you  
12 know, the gal that works in San Francisco is  
13 fairly knowledgeable, her name is Tracy but I  
14 don't know her last name.

15 And then, you know, you have people out  
16 there like Hoofnagle and a few others that are  
17 out there in like EPIC and Pirg and a few other  
18 groups like that that are fairly knowledgeable  
19 as well.

20 Q. I think I asked you before about  
21 whether or not you asked the Identity Theft  
22 Resource Center to help you in this litigation.  
23 Let me ask you a slightly different question.  
24 Have you ever helped Jay -- have you ever asked  
25 Jay or Linda Foley to assist you in the

1 litigation?

2 A. No.

3 Q. Your Declaration says, quote, "I have  
4 devoted a substantial amount of time to studying  
5 materials relating to identity theft and credit  
6 reporting." What type types of materials have  
7 you studied in that regard?

8 A. Well, I mean, I've studied just about  
9 every survey that comes out, whether it's  
10 published in the paper or newspaper articles.  
11 You know, I've looked at testimony that -- the  
12 public stuff that's available from Congress.  
13 Anything that was related to the FACTA Act,  
14 because that was really big at that time.

15 They were still I think in the comment  
16 period in 2006 related to the FACTA Act. And  
17 so, I mean, like there were instances liked  
18 related to credit scoring and whatnot where I've  
19 submitted comments to, you know, the Federal  
20 Reserve or whatever whenever they were making  
21 all the new banking rule changes, especially  
22 like with Check 21 and stuff like that.

23 Credit scoring and insurance modeling,  
24 the data breach incidences that have been -- I  
25 followed the Choice Point story pretty closely,

1 and a few of the others, like University of Los  
2 Angeles, a few others that had big data  
3 breaches.

4 The one that went from Lexis Nexis, and  
5 then there was another data breach I think with  
6 Ford Motor Credit where somebody was using  
7 illegal passwords and sign-ons and logging in to  
8 their credit reporting tool and stealing  
9 people's credit reports.

10 I've followed numerous stories. I  
11 mean, I pick up -- I even follow them in Canada  
12 and the United Kingdom.

13 Q. Do you consider yourself an expert on  
14 the topic of identity theft?

15 A. Well, I mean, as close as you can  
16 probably come as being a self-made expert, I  
17 guess, yeah, I probably would be. I have more  
18 knowledge I guess than the average bear.

19 (M. Millett Exhibit 24 was marked  
20 for identification by the reporter.)

21 Q. (BY MR. O'NEIL) Mrs. Millett, I'm going  
22 to show you what's been marked Exhibit 24, which  
23 I'll represent to you is a document that we  
24 received from your lawyers in this case.

25 A. Uh-huh.

1 Q. Have you ever seen this document  
2 before, Mrs. Millett?

3 A. Yeah, once upon a time in a galaxy far,  
4 far away I believe. I think that was, what,  
5 maybe two or three years ago.

6 Q. And this one appears to be maybe in a  
7 closer galaxy.

8 A. This one says 2006.

9 Q. Right. On the first page, it  
10 identifies you as a witness who's likely to have  
11 discoverable information that you and your  
12 husband may use to support your claims. Do you  
13 see that, ma'am?

14 A. Yes.

15 Q. Okay. And then identifies a number of  
16 possible subject matter of testimony --

17 A. Uh-huh.

18 Q. -- that would be elicited from you?

19 A. Yes.

20 Q. Did you ever have a chance to review  
21 the description of your subject matter of  
22 testimony here before it was produced by your  
23 lawyers in this case?

24 A. I have reviewed every one of these  
25 before they were produced.

1 Q. So, do you believe that you can provide  
2 all the types of testimony that's described in  
3 that document?

4 A. Pardon me while I refresh myself.  
5 Yeah, I believe so.

6 Q. It states here on Page 2, Mrs. Millett,  
7 that, quote, "Plaintiff, Melody Millett, will  
8 also provide testimony about the affects of  
9 identity theft and the forms of identity theft,"  
10 closed quote. Do you see that, ma'am?

11 A. Yes, sir.

12 Q. What kind of testimony can you provide  
13 about the forms of identity theft?

14 A. Well, I'm familiar with just about all  
15 the forms of identity theft. I mean, you know,  
16 you have true name fraud, you have synthetic  
17 identity fraud, you have Social Security number  
18 fraud, you have, I mean, any form in which any  
19 piece of identifying information is used to  
20 commit identity or financial fraud basically has  
21 a type associated with it.

22 I mean, there is child identity theft  
23 where people are out there using children's  
24 identities to hide whether it's from legal or  
25 criminal matters or financial matters and they

1 impersonate their children. They do it to get  
2 back at spouses. There's all different types of  
3 identity theft out there.

4 Q. In your view, what type of identity  
5 theft did your husband suffer?

6 A. Well, he suffered -- he suffers from  
7 what used to be referred to as Social Security  
8 number identity theft in which your number is  
9 stolen.

10 Nowadays, the, quote, "term of the term  
11 de jour" for that is they're referring to that  
12 now as synthetic identity theft, in which  
13 components or pieces of other people's actual  
14 identities are used to create whole new  
15 identities. But that term "synthetic identity"  
16 theft wasn't coined until 2006, so it's a  
17 relatively recent term.

18 Q. Who termed it?

19 A. I don't recall which specific article  
20 was the first place that I saw it, but I believe  
21 it was in "The Washington Post," but I could be  
22 mistaken.

23 Q. And I know you said this before, but I  
24 was -- I can't write as fast as you can talk.  
25 What do you understand or what do you think --



1 what is "synthetic identity theft"?

2 A. Synthetic identity theft is when they  
3 take unique identifiers which are recognized by  
4 computer systems, and they use them to fabricate  
5 whole new identities, which the computer systems  
6 are essentially confused by, and then allow just  
7 access to their system because they're already  
8 accepted identifiers.

9 I mean, Abundio Perez is an example of  
10 synthetic identity theft. He took a number that  
11 didn't belong to him, but is a real and valid  
12 working Social Security number. And he went  
13 through every computer system in the country,  
14 including the FHA, and passed the muster because  
15 it's a legitimate number. It passes all the  
16 validation logic.

17 So, synthetic identity theft where you  
18 take real identifiers which already exist and  
19 are known and validated by computers and pass  
20 all the validation logic, and you cobble  
21 together a whole new identity, because the way  
22 the keying systems work in the databases, this  
23 new identity passes all the validation tests and  
24 then is allowed free movement among all the  
25 computer systems because it's passing all of the

1       programmed logic.

2           Q.    To your knowledge, when Mr. Abundio was  
3       creating this new identity, did he use  
4       identifying information of anybody other than  
5       himself and your husband?

6           A.    I don't think he's even using his own  
7       himself.  Because Mr. Perez, with my husband's  
8       number, has used multiple aliases.

9           Q.    Okay.  Well, he's used his own address,  
10      hasn't he?

11          A.    I don't even know that it's -- he's  
12      used the address of the house that he purchased  
13      with one of the aliases.  I don't know that he  
14      resides at that address.

15          Q.    Right.  To your knowledge, has he used  
16      information belonging to anybody else besides  
17      your husband?

18          A.    I couldn't say because of the number of  
19      aliases.  I mean, Maricio Cuatle could be his  
20      brother or could not be, or it could be a made  
21      up name, it could be -- I have in idea.

22          Q.    Yeah, obviously if you don't know, you  
23      don't know.  I'm just wondering if you know.

24          A.    No.  I have suppositions and theories,  
25      but that's all I have.

1 Q. Now, you said that it used to be called  
2 Social Security number identity theft?

3 A. Right.

4 Q. Who called it that?

5 A. Well, I believe the Social Security  
6 Administration referred to it as Social Security  
7 -- they referred to it as Social Security number  
8 fraud. But the FTC first started talking about  
9 Social Security number identify theft on their  
10 website in like '04 or '03, somewhere in that  
11 frame, when the first stuff was going on with  
12 FACTA.

13 Q. Are you aware of any references to  
14 Social Security number identity theft prior to  
15 2004 or 2003?

16 A. Well, yes.

17 Q. And by whom?

18 A. There was a reference to -- there was  
19 an article in "The New York Times" in like 1996  
20 that was actually an article from TransUnion's  
21 general counsel about how Social Security number  
22 identity theft was going to be the next big  
23 thing. But I pulled that out of the archives,  
24 and I believe that I pulled that out some time  
25 in '03. I mean, before January of '03, I

1 wouldn't have really been that interested in it  
2 per se.

3 Q. Do you have a copy of this article in  
4 your possession?

5 A. No, I don't. I saw it online.

6 Q. Okay. So, you never gave it to your  
7 lawyers then?

8 A. I don't know. I think I -- I don't  
9 know if I gave it to my lawyers or not.  
10 Sometimes I forward those news articles to them  
11 that I find that are interesting, and sometimes  
12 I don't because it's not related to the case.

13 Q. Did you decide not to forward that  
14 article because it's not related to the case?

15 A. No. It's from 1996. I mean, you know,  
16 you're out there looking around and reading, I  
17 find stuff that's interesting all the time. I  
18 don't forward everything I find that's  
19 interesting.

20 Q. Well, are you aware that your lawyers  
21 have produced in this case certain articles and  
22 certain reports about identity theft?

23 A. Yes.

24 Q. Okay. And some of those came from you,  
25 right?

1 A. I don't know if they did or didn't.

2 I'd have to go and look at the specific article  
3 and say whether or not I may have seen that one  
4 or not seen that. And sometimes they send me  
5 the articles, in which case it's, you know, a  
6 two-way street.

7 (M. Millett Exhibit 25 was marked  
8 for identification by the reporter.)

9 Q. (BY MR. O'NEIL) Well, let me show you a  
10 document that was produced by your lawyers in  
11 this case that identifies some of these  
12 articles. I'm going to hand you what's been  
13 marked Exhibit No. 25, which I'll represent to  
14 you is a document we received from your lawyers  
15 in this case. Have you ever seen any portion of  
16 this document, Mrs. Millett?

17 A. This is a list on what's on the CDs I  
18 believe.

19 Q. Have you ever seen it before?

20 A. I've seen it in parts. I don't think  
21 I've seen it in exactly this format, but that's  
22 all right.

23 Q. Let me direct your attention to the  
24 second to the last page of this exhibit,  
25 Mrs. Millett.

1 A. Yep.

2 Q. There's a heading "Disk 7 Documents,"  
3 do you see that, ma'am?

4 A. Yes.

5 Q. And then there's a number of documents  
6 identified there.

7 A. Uh-huh.

8 Q. Have you ever seen this listing of  
9 documents before?

10 A. Well, I've seen all these documents at  
11 some form or another, yeah.

12 Q. Okay. Have you ever seen a listing of  
13 these particular documents?

14 MS. YEAGER: Objection. Vague.

15 A. A listing, I'm looking at a listing  
16 right now, I mean...

17 Q. (BY MR. O'NEIL) Okay, well, then let me  
18 start with that. Have you ever seen this  
19 particular document before?

20 A. I know that when they produced this  
21 document that the list was sent to me, but it  
22 was not in this format, so. I mean, you know,  
23 so have I seen this particular document, no.  
24 But have I seen all the list of what was being  
25 produced and which disks they're on, yes, I

1 have.

2 Q. Okay. And to your knowledge, have  
3 these same documents been produced by your  
4 lawyers in the other litigation that you've  
5 filed?

6 A. I'm not sure, but I'm sure they have.

7 Q. Okay. Do you -- do you have an  
8 understanding as to why these particular  
9 documents were produced in this litigation?

10 A. Well, some of these documents, for  
11 example, the 2003 Credit Reporting Resource  
12 Guide by the CDIA, that's the one that deals  
13 with the actual credit reporting formats. That  
14 would be relevant if you were trying to talk  
15 about, you know, that there was something wrong  
16 with credit reports or that credit reports were  
17 somehow inaccurate.

18 And when we started all these case,  
19 they all had a Fair Credit Reporting Act  
20 components. That's why being on this list it  
21 kind of makes sense.

22 The FTC Identity Theft Victim Complaint  
23 Data Fact, those are all the statistics I think  
24 from the FTC on how many people have suffered  
25 particular forms of identity theft and the

1 amounts of money that are lost by victims and so  
2 on and so forth.

3 And since this is basically a breach of  
4 contract that's related to identity theft, in  
5 that the breach is that the product doesn't work  
6 for the purpose of identity theft for which it's  
7 advertised, I would think that that would  
8 probably be highly relevant.

9 The 2004 report on Social Security  
10 numbers and private sector use is the actual  
11 testimony from Congress which deals with the use  
12 -- Social Security number fraud and the  
13 prevalence of duplicate Social Security number  
14 usage in the financial markets and what the  
15 impact and affect that's having.

16 The September 2003 FTC Overview of  
17 Identity Theft Program is when they kicked off  
18 all the FACTA stuff and it was about all the  
19 comment periods and everything else that were  
20 related to the Fair and Accurate Credit  
21 Transactions Act, which is specifically enacted  
22 for identity theft and gave you the right to  
23 include fraud alerts, that gave people the right  
24 to free annual disclosures, etc., etc., etc.

25 The 2005 FTC statement is an update



1 basically on identity theft on -- related to  
2 individuals' sensitive information, which  
3 includes some information on Social Security  
4 number fraud.

5 Q. If I can just stop you. What about  
6 that document at the very bottom there, "Summer  
7 2003 Identity Theft, the Aftermath 2003"?

8 A. Yeah. That's the comprehensive study,  
9 that's the piece that I was telling you about  
10 that went with the IRTC -- with the ITRC to --  
11 they took that to Congress. That was part of  
12 their FACTA testimony was that document there.

13 Q. Okay. And are you aware that in the  
14 depositions that were taken in California, some  
15 of the witnesses were questioned about that  
16 particular document?

17 A. Uh-huh.

18 Q. Okay. Is there something significant  
19 about that document in your mind, as opposed to  
20 some of the other documents?

21 A. Well, the specific document from the  
22 IRTC is relevant because it tends to be more  
23 anecdotal. It deals with -- it doesn't deal  
24 with the esoteric experience of identity theft  
25 which you usually get from the FTC, Congress and

1 other governmental bodies, in which you start  
2 talking about that, you know, five million  
3 people that had their identifiers stolen or the  
4 average cost per victim is \$5,000 or it takes  
5 them 300 hours to clean it up.

6 What it talks about is what really  
7 happens in people's lives when the computer  
8 system holds you in their grip, takes everything  
9 about you that is your personal identifier, will  
10 not let it go, and how that impacts specific  
11 individuals from an anecdotal perspective.

12 Because one of the things that gets  
13 missed in all the facts, figures and everything  
14 else is the emotional damage and harm that is  
15 done when you go to somewhere and someone tells  
16 you they're not going to do business with you  
17 because they believe that you're trying to  
18 defraud them. And the emotional impact of that,  
19 which is tremendous.

20 And for some people, I mean, for some  
21 people that are out there that are so badly  
22 broken in the computer systems due to pollution,  
23 your lives are so impacted, I mean, even just a  
24 simple act of going to Best Buy and saying, hey,  
25 would you like to sign up for our Best Buy

1 credit card today and get 20 percent of your  
2 T.V. purchase, how many of those opportunities  
3 that are lost in your life that, you know, can't  
4 even aggregate them or calculate them.

5 It is a never-ending source of ongoing  
6 frustration, stress, and turmoil that goes on  
7 because you never know when you're going to walk  
8 in and something is not going to be right.

9 Q. And you think this report captures  
10 that?

11 A. It captures a lot, some of that, yeah.

12 Q. Okay.

13 A. Uh-huh. And that's very difficult to  
14 capture, because nobody really wants to get down  
15 be the nitty gritty or the detail of it and say  
16 this is what the experience really is. It's  
17 easier for them to talk about it took you 30  
18 hours to clean it up or took you 300 hours to  
19 clean it up, or you need to make a few phone  
20 calls or it cost you 500 bucks.

21 Q. Okay. You identified a number of forms  
22 of identity theft earlier for us, Mrs. Millett.

23 A. Uh-huh.

24 Q. The first one you identified something  
25 called "true name fraud"?

1 A. Uh-huh.

2 Q. What's that?

3 A. True name is when I take everything  
4 that you are, your name, your address, your  
5 Social Security number, everything that you are,  
6 and I go out and I pretend that I'm going to be  
7 Mr. O'Neil.

8 Q. Uh-huh.

9 A. That's true name fraud.

10 Q. Okay. And Social Security identity  
11 theft is when someone just takes your Social  
12 Security number I guess; is that right?

13 A. Yes.

14 Q. Okay. Do you have an understanding as  
15 to, during any time period, you know, what  
16 percentage of identity theft is true name fraud?

17 A. It's hard to quantify, because a lot of  
18 the Social Security number fraud is basically  
19 hidden. People only discover that by accident.  
20 So, in my husband's case, you know, he found  
21 Abundio Perez because somebody --

22 Q. Ma'am, if I could just stop you?

23 A. Yeah.

24 Q. Because we're all trying to get out of  
25 here.

1 A. Okay.

2 Q. Are you aware of any reports, surveys,  
3 studies, governmental reports, private reports,  
4 that try to determine what percentage of  
5 identity theft is true name fraud?

6 A. Yes, I'm aware of several reports.

7 Q. And what are they?

8 A. There was the report in here on the  
9 FACTA Act, there was some statistics in that.  
10 The FTC puts out an annual report every year  
11 that talks about the statistics. There are  
12 various different studies in places. I think  
13 even the Federal Reserve does a study on  
14 identity theft in the financial markets, and  
15 then they put that out every year.

16 Q. And what's your understanding from all  
17 those reports as to what percentage of identity  
18 theft is true name fraud?

19 A. Well, that percentage varies, and I  
20 don't necessarily always agree with how the  
21 percentages are calculated. Because I think  
22 there is a huge amount of identity theft that is  
23 either underreported or not calculated in the  
24 percentage.

25 Q. Okay. And I'll ask you about your

1 thoughts about them, but, first, do you recall  
2 as you sit here --

3 A. Not the exact percentage, no.

4 Q. Okay. Do you recall the general  
5 percentage?

6 A. No, I don't. Not off the top of my  
7 head.

8 Q. But whatever it is, you disagree with  
9 it?

10 A. I disagree with any of the percentages  
11 because they don't have the whole.

12 Q. Okay.

13 A. You can't calculate a percentage  
14 accurately if you don't know what the whole is.

15 Q. So, is it fair to say that in your  
16 opinion there's really no good way of  
17 quantifying what percentage of identity theft  
18 falls within the various types of identity  
19 theft?

20 A. Well, there are some methods by which  
21 you can quantify, for example, how many  
22 particular types of, let's say, identity theft  
23 have occurred. The Visa company, for example,  
24 knows how many fraudulent credit card  
25 transactions there were. That's a form of

1 identity theft because you're stealing  
2 somebody's credit card number.

3 Q. Okay.

4 A. Okay.

5 Q. Ma'am --

6 A. But we don't know what the percentage  
7 is because we don't know what the whole is.

8 Q. Okay. So, then you would agree that  
9 it's really difficult to quantify what  
10 percentages of identity theft are made up of  
11 particular types of identity theft?

12 A. I would -- for percentages, I would  
13 agree that it's hard to determine percentages,  
14 not actuals.

15 Q. Do you have any sense as to whether or  
16 not true name fraud is more prevalent than  
17 Social Security number identity theft?

18 A. My personal opinion would be based on  
19 the information from ICE Enforcement and Social  
20 Security Administration's testimony on the  
21 suspense fund at the Social Security  
22 Administration. I bet that if it was fully  
23 reported, Social Security number fraud would  
24 outstrip true name fraud by a significant  
25 margin.

1 Q. And what's the basis for that belief?

2 A. Ten million undocumented aliens all  
3 using fraudulent Social Security numbers.

4 Q. Of course, you could use a fraudulent  
5 Social Security number without stealing it from  
6 somebody else, right?

7 A. They don't pass the validation process  
8 that's now in place with ICE and several of the  
9 various states. So it has to be a valid number.

10 Q. Would you agree given all of your  
11 knowledge and reading about anecdotal evidence  
12 of the emotional stress and the financial harm  
13 created by identity theft that, and generally  
14 speaking, true name fraud has a much greater  
15 negative impact on the victim than Social  
16 Security number identity theft?

17 A. No, I would not agree necessarily. I  
18 would say that true name fraud is probably  
19 easier to clean up.

20 Q. Okay. That wasn't my question. My  
21 question had to do with the impact on victims,  
22 the financial impact, the emotional impact.  
23 Would you agree that true name fraud has a much  
24 greater negative impact on victims than Social  
25 Security number identity theft?



1           A.    No, I would not.  Because it's easier  
2   to clean up.

3           Q.    Okay.

4           A.    It's easier for you to produce yourself  
5   and your fingerprints at the DMV and sit there  
6   and say I'm not -- this is not me and this is  
7   not my person.  So, you can resolve yourself  
8   because you have DNA and you have fingerprints  
9   and that belongs to your true name identity.

10               With the Social Security number, the  
11   problem becomes you can't get anyone to sit  
12   there and say this number is owned by you and  
13   you own this number.  So, now the wrestling goes  
14   on with you having to prove that you actually  
15   have the right to use and own that number.

16               And since it's not easy to clean up,  
17   since it's -- since it's systematic in the  
18   computer, the problem becomes that it cost more  
19   time, it cost more money, it's way more  
20   aggravation.  Trying to explain why two people  
21   are using the same number is more time  
22   consuming.  I almost think that Social Security  
23   number fraud, once it's uncovered, is very, very  
24   difficult and much more damaging and time  
25   consuming.  I really think it is.

1 Q. Would you agree that one of the reasons  
2 why you think Social Security number identity  
3 theft is under reported is because people are,  
4 quote, "victims" of it without ever knowing it?

5 A. People are victims and victimized and  
6 not always aware why. That's -- there's a  
7 difference there. Not knowing it implies that  
8 it has no impact on their life and it goes on  
9 behind their back and it's of no impact or  
10 import to them, and I would disagree with that  
11 statement whole heartedly.

12 What it is, is it's transactional  
13 records where you go to the bank to take out a  
14 mortgage and you don't get the mortgage, but  
15 nobody really comes out and tells you the reason  
16 you don't get a mortgage is because three people  
17 in California are already using your number and  
18 took your FHA mortgage from the federal  
19 government.

20 Q. So, you're not aware of laws that  
21 obligate financial institutions to advise you  
22 when you're denied a mortgage as to why you were  
23 denied?

24 A. Oh, they advise you as to why you were  
25 denied, but they don't tell you the truth.

1 Q. Okay. Why do you think they're lying  
2 to you about that?

3 A. What do you mean?

4 Q. Well, you say they don't tell you the  
5 truth. Why do you think financial institutions  
6 violate federal and state law and misstate the  
7 reasons why you're being denied? Why do you  
8 think they're doing that? Is it for some  
9 financial gain?

10 A. I don't understand the question the way  
11 that you just said it.

12 Q. Okay.

13 A. Because I would not characterize it as  
14 violating federal and state law. I would  
15 characterize it as they are skating along the  
16 very edges of the state law and federal law.

17 (M. Millett Exhibit 26 was marked  
18 for identification by the reporter.)

19 Q. (BY MR. O'NEIL) Let me hand you what's  
20 been marked as Deposition Exhibit No. 26, which  
21 is a document that was produced by your lawyers  
22 in this case.

23 A. Uh-huh.

24 Q. Have you ever seen this before?

25 A. Yes, I have.

1 Q. And this is the report that you  
2 referred to earlier and that was referenced in  
3 Exhibit 25, right?

4 A. Right.

5 Q. Okay. And you've read this, haven't  
6 you?

7 A. Yeah, uh-huh.

8 Q. And --

9 A. I'm fairly familiar with this, yes.

10 Q. Okay, let me turn your attention to  
11 Page 5.

12 A. Uh-huh.

13 Q. And here the Identity Theft Resource  
14 Center is identifying three main forms of  
15 identity theft, right?

16 A. Yes.

17 Q. And you've seen this before, haven't  
18 you?

19 A. Uh-huh.

20 Q. Okay. And your husband didn't suffer  
21 any of these forms of identity theft, did he?

22 A. Actually, that would be the financial  
23 identity theft paragraph where it says, "theft  
24 involves impostor's use of personal identifying  
25 information, primarily the Social Security

1 number."

2 Q. Okay. So, of the three forms of  
3 identity theft that the Identity Theft Resource  
4 Center has identified, you believe that  
5 Mr. Millett suffered the first form?

6 A. He would be included in the first form,  
7 yes.

8 Q. Okay. Well, let's read the whole  
9 sentence that you quoted from. It says,  
10 "Financial identity theft involves the  
11 impostor's use of personal identifying  
12 information, primarily the Social Security  
13 number, to establish new credit lines in the  
14 name of the victim." Do you see that?

15 A. Uh-huh. Right.

16 Q. I mean, Mr. Abundio, or whatever his  
17 name is, never established credit lines in the  
18 name Steven Millett, did he?

19 A. No, he did not.

20 Q. Okay. I think we --

21 MR. O'NEIL: How much time do we  
22 have left on the tape?

23 VIDEOGRAPHER: Four.

24 MR. O'NEIL: Four, okay, well,  
25 let's keep going then.

1 Q. (BY MR. O'NEIL) Let me direct your  
2 attention to Page 11, Mrs. Millett.

3 A. Yes.

4 Q. And there is a heading "Financial  
5 Identity Theft," which is the type of identity  
6 theft that you believe your husband suffered,  
7 right?

8 A. Well, no, I don't believe my husband  
9 suffered. In 2003, Social Security number fraud  
10 and true name fraud were all aggregated under  
11 the same type of identity theft. The types of  
12 identity theft have been evolving since this  
13 original survey was done in 2003, so.

14 Q. So, Social Security number identity  
15 theft did not exist in 2003?

16 A. Well, it didn't exist as a separate  
17 category.

18 Q. Oh. Has the Identity Theft Resource  
19 Center now issued something that says there's  
20 another type of identity theft called "Social  
21 Security number identity theft"?

22 A. The people, the people who control the  
23 definitions of identity theft are the FTC, the  
24 Federal Trade Commission.

25 Q. Okay.

1           A.    So, in 2003, Social Security number  
2           fraud was included in financial identity theft  
3           because it was used for financial transactions.

4           Q.    Okay. I guess right now I'm just  
5           asking about Exhibit 26.

6           A.    Right. And I'm telling you that a lot  
7           of the stuff that Linda and Jay Foley used, in  
8           terms of how stuff is defined, is derived from  
9           the Federal Trade Commission because they're the  
10          ones who have defined in law what identity theft  
11          is.

12          Q.    Do you know why Exhibit 26 doesn't  
13          identify Social Security number identity theft?

14          A.    No, I do not.

15          Q.    Did you ever ask Mr. or Mrs. Foley  
16          about that?

17          A.    Huh?

18          Q.    Did you ever ask Mr. and Mrs. Foley why  
19          their 58-page report on identity theft in 2003  
20          didn't mention the type of identity theft that  
21          you believe your husband suffered?

22          A.    Because in 2003 --

23          Q.    Ma'am, I'm asking you if you ever asked  
24          them that question?

25          A.    I haven't asked them that question, no.

1 Q. Okay. Did you ever -- okay.

2 Going back to Page 11, it identifies a  
3 number of ways in which personal information was  
4 used to facilitate financial identity theft, do  
5 you see that, ma'am?

6 A. Yes.

7 Q. Take a look at all of those ways in  
8 which information was used and let me know if  
9 any of those ways were used by your husband's  
10 identity thief.

11 A. Purchase, get new cellular phone  
12 service, get a new table, T.V. or energy utility  
13 account, purchase -- get new home telephone  
14 service, open new checking or saving accounts.

15 Q. Do you have any document --

16 A. Wait, it continues on the second page.

17 Q. Yeah, and we'll get to that, ma'am. Do  
18 you have any documentation that supports your  
19 belief that your husband's identity thief opened  
20 or -- well, obviously, your -- this identity  
21 thief never took over any of your husband's  
22 accounts, right?

23 A. No.

24 Q. Okay. But you think he created  
25 accounts, he created a cell phone account using



1 your husband's Social Security number?

2 A. Yes.

3 Q. Do you have any proof of that?

4 A. Yes, the phone bills are on the  
5 TransUnion letter. The vendors, the vendors for  
6 all these accounts we're talking about right  
7 here, Mr. O'Neil, are on the TransUnion letter  
8 that was in my last deposition. AT&T Universal  
9 is on there, and that's where the phone accounts  
10 were held, the wireless account.

11 Q. Okay.

12 A. And cell phone.

13 Q. So, all the proof you have to support  
14 your contention is that letter you got from  
15 TransUnion in April 2003?

16 A. And some documents that were produced  
17 on this disk, like U.S. Department of Housing  
18 and Urban Development, which shows that  
19 Mr. Abundio Perez purchased a house using my  
20 husband's Social Security number, and an FHA  
21 mortgage to boot.

22 Q. I guess I don't see purchasing a house  
23 on --

24 A. That's on the next page.

25 Q. Oh, okay.

1 A. See, you cut me off.

2 Q. No, I didn't cut you off. We got three  
3 minutes left on the -- I'm just trying to focus.

4 A. Okay.

5 Q. It's all about focus today, because  
6 your lawyers are trying to limit the scope of  
7 this deposition. And if we're going to do that,  
8 it's only going to be if I get my answers -- my  
9 questions answered.

10 MR. O'NEIL: Let's go off the  
11 record so we can change the tape.

12 VIDEOGRAPHER: The time is now  
13 10:34 AM. We're going off the record.

14 (Recess.)

15 VIDEOGRAPHER: We're back on the  
16 record. The time is 10:40 AM.

17 Q. (BY MR. O'NEIL) Mrs. Millett, I'm  
18 handing you what's been marked as Exhibit 27,  
19 which I'll represent to you is a set of  
20 discovery requests that your lawyers sent to us  
21 for our client to answer.

22 (M. Millett Exhibit 27 was marked  
23 for identification by the reporter.)

24 A. Okay.

25 Q. (BY MR. O'NEIL) Entitled "Plaintiff's

1 First Request for Admission to Defendant  
2 TrueLink, Inc." Have you ever seen this  
3 document before?

4 A. I've seen drafts or whatever, but have  
5 I seen this particular document in final form, I  
6 don't know.

7 Q. Okay. There's definitions in this  
8 document, definitions of words that are  
9 apparently used in the document, although that  
10 wasn't really clear to us. But, in any event,  
11 on Page 2, there's a definition of "identity  
12 theft."

13 A. Yes.

14 Q. Do you recall ever having seen that  
15 definition before?

16 A. Yes.

17 Q. Okay. Did you have any -- play any  
18 part in coming up with this definition?

19 A. I believe the definitions were created  
20 by my legal team.

21 Q. Okay. And you didn't have any input  
22 into it then?

23 MS. YEAGER: Objection. Calls  
24 for work product. Attorney-client privilege.

25 Q. (BY MR. O'NEIL) You can answer.

1           A.    We've discussed identity theft over the  
2   years in depth with my attorneys, so.

3           Q.    But you never specifically had a  
4   conversation with your lawyer about the  
5   particular definition which is in discovery  
6   requests served of TrueLink, correct?

7                   MS. YEAGER:   Same objection.

8           A.    No, I don't --

9           Q.    (BY MR. O'NEIL) Okay.

10          A.    I don't recall any specific  
11   conversation.

12          Q.    Your lawyers have defined "identity  
13   theft" for purposes of this discovery request to  
14   mean, quote, "the unauthorized use of personal  
15   information by another to obtain or attempt to  
16   obtain credit, make charges, secure employment,  
17   or obtain identification," closed quote. Do you  
18   see that?

19          A.    Yeah.

20          Q.    And would you agree with that  
21   definition of "identity theft"?

22          A.    Yeah, that's a very general definition  
23   of "identity theft," but, yeah, it works.

24          Q.    Do you think it fails to include  
25   certain types of identity theft?

1           A.    I'm sorry, I don't understand the  
2    purpose -- the question, I'm sorry.

3           Q.    Do you think that there's identity  
4    theft that exists that is not encompassed within  
5    this definition?

6           A.    Yeah.  There would be criminal identity  
7    theft where a person would go and commit crimes  
8    and then be arrested and incarcerated, or maybe  
9    -- bankruptcy might not be included in this  
10   because that would be a court proceeding, but  
11   people do file bankruptcy illegally under other  
12   people's identity, so.  But, I mean, the  
13   bankruptcy would be generated by the credit and  
14   the making charges, so, I mean, it probably  
15   would be fitting in there anyway.

16          Q.    So, do you think it would be identity  
17   theft if someone used personal information on a  
18   job application?

19          A.    Yes.  Because most job applications  
20   have a paragraph at the bottom that say under  
21   penalty of whatever, blah, blah, I hereby  
22   certify that the following and foregoing is true  
23   and correct.

24          Q.    Okay.  In August of 2003, you said that  
25   you -- strike that.

1           You testified earlier that you recall  
2   in August of 2003 you thought TrueLink was  
3   promising your husband complete identity theft  
4   approximately. Do you recall that testimony?

5           A.    Yes.

6           Q.    Okay. So, in August of 2003, did you  
7   believe that TrueLink could prevent somebody  
8   from using your husband's Social Security number  
9   on an employment application?

10          A.    If true -- if TransUnion was contacted  
11   for the background check, then, yeah, that  
12   should be the case.

13          Q.    Okay. So, you recognize that it  
14   wouldn't provide complete identity theft  
15   protection under all circumstances?

16          A.    Well, only as it would relate to  
17   TransUnion's data.

18          Q.    So, if Mr. Abundio Perez used your  
19   husband's Social Security number on a job  
20   application, but the employer never sought data  
21   from TransUnion, that would still be identity  
22   theft, right?

23          A.    Oh, yes, it would still be identity  
24   theft.

25          Q.    Okay. But you never thought that

1 TrueLink would prevent that type of identity  
2 theft, right?

3 A. I'm sorry?

4 Q. You never thought that -- and, well,  
5 no, in August of 2003, you didn't think that  
6 that type of identity theft would be prevented  
7 by buying credit monitoring from True Credit,  
8 right?

9 A. Only to the extent that the background  
10 check used for the employment was pulled from  
11 one of your subsidiaries, yeah.

12 Q. Okay. Well, I'll go back to my  
13 original question because that was my  
14 hypothetical.

15 A. Uh-huh.

16 Q. Mr. Perez uses your husband's Social  
17 Security number on an employment application but  
18 the employer never contacts TransUnion. You  
19 never thought that your husband would be  
20 protected by that type of identity theft by  
21 buying credit monitoring, right?

22 A. No, and no reasonable person would.

23 Q. Because you have to read those types of  
24 things reasonably, right?

25 A. Yes.

1 Q. That's what the judge in your Experian  
2 case said, right?

3 MS. YEAGER: Objection. Calls  
4 for a legal conclusion.

5 MR. O'NEIL: No, it doesn't.

6 Q. (BY MR. O'NEIL) You can answer.

7 A. What was the question again? Can  
8 somebody please read it back?

9 Q. Do you recall when the judge dismissed  
10 most of your claims against Experian, the judge  
11 said that no reasonable person would interpret  
12 Experian's statements regarding credit  
13 monitoring in the way that you did?

14 A. I recall the judge's opinion. I  
15 disagree with it.

16 Q. Okay. Do you recall that when you  
17 bought the Experian product, it said that  
18 purchasing credit monitoring would help bring  
19 you the good things in life?

20 A. I'm sorry?

21 Q. Do you recall that when you purchased  
22 the Experian product on behalf of your husband  
23 in August of 2003 that one of the things you  
24 were told was that credit monitoring would help  
25 bring the good things in life to you and your



1 husband?

2 A. I don't recall specifically. I'd need  
3 to get the documents here in front of me.

4 Q. Did you believe that buying credit  
5 monitoring from Experian in August of 2003 would  
6 bring the good things in life to you and your  
7 husband?

8 A. I'm sorry?

9 Q. Did you, when you bought the Experian  
10 product in August of 2003, did you think that as  
11 a result that you would get the good things in  
12 life?

13 MS. YEAGER: Objection.

14 Relevance.

15 A. I don't understand, because I don't  
16 recall that specific statement that you're  
17 asking about, so I can't answer that question.

18 Q. (BY MR. O'NEIL) And you know,  
19 Mrs. Millett, that -- of course you know -- that  
20 you have been trying to get banking records from  
21 your bank for purposes of this lawsuit, right?

22 A. The ones that we needed to come back  
23 off of microfilm, yes.

24 Q. Yeah. To your knowledge, have you  
25 obtained all of the banking records that you

1 needed for purposes of this litigation?

2 A. I obtained a good portion of them, I  
3 believe that those were redacted and provided to  
4 you. There may be still some months that are  
5 missing or outstanding, I'm not sure. I have a  
6 list at home that I'm working, so I can't tell  
7 you exactly which ones they are.

8 Q. Okay. Well, you understood that one of  
9 the reasons we had to continue your deposition  
10 to today was so that you and your lawyers could  
11 produce some of the documents, right?

12 A. Correct.

13 Q. Okay. And you knew that you had to get  
14 these banking records to complete your  
15 deposition, right?

16 A. Right.

17 Q. Okay. But, as you sit here now, you  
18 don't know whether or not you've gotten all the  
19 documents?

20 A. I believe so.

21 Q. Okay. So, you do think you got all the  
22 records?

23 A. Yes. I'm running an additional check  
24 for some other months to see if there are  
25 additional transactions that may have been

1 overlooked.

2 Q. Okay. Did you get all the records that  
3 you requested from the bank?

4 A. Yes, I did.

5 Q. Have you looked at all of them?

6 A. Yes.

7 Q. For the purpose of determining which  
8 pages are relevant to the lawsuit?

9 A. Oh, no, I didn't do that. My lawyers  
10 did that for me.

11 Q. Oh, okay.

12 A. I turned over all the bank records to  
13 them.

14 Q. Okay. So, there's no reason for you to  
15 believe that you have to continue this search,  
16 is there?

17 A. I'm sorry?

18 Q. Well, I guess I'm confused, because you  
19 told me earlier that you're not sure if you have  
20 everything and you've got to look at home. But  
21 for purposes of producing documentation in this  
22 case to prove whatever claims you have, to your  
23 knowledge, did you get from the bank all the  
24 records you needed?

25 A. I believe so.

1 Q. Okay. And you've turned those over to  
2 your lawyers, right?

3 A. I believe so.

4 (M. Millett Exhibit 28 was marked  
5 for identification by the reporter.)

6 Q. (BY MR. O'NEIL) Okay. Let me show you  
7 what's been marked Exhibit 28, which is a letter  
8 that we got from Ms. Yeager enclosing some  
9 redacted banking records. You and your husband  
10 are shown as a CC recipient of the letter. Have  
11 you ever seen this letter?

12 A. Yeah, I've seen the letter.

13 Q. Have you ever seen the redacted banking  
14 records which are attached to it?

15 A. Oh, yes, I saw them this morning.

16 Q. Have you seen them prior to this  
17 morning?

18 A. What? The redacted or the actuals?

19 Q. The redacted?

20 A. No, not the redacted.

21 Q. Okay. Do you have an understanding as  
22 to the significance of the line items in your  
23 banking records which are not redacted?

24 A. Yes. These are the line items that  
25 show the products purchase.

1 Q. Products purchased from whom?

2 A. From TransUnion and TrueLink.

3 Q. Is there a way that you can tell that  
4 these purchase -- that these moneys went to  
5 TrueLink, as opposed to Experian or  
6 consumerinfo.com, or Equifax or Intersections?

7 A. Well, most of them, most of them, for  
8 the Intersections -- Intersections in specific  
9 -- the ones that went to Intersections are  
10 specifically identified as Intersections. The  
11 ones that went to Experian show consumerinfo.com  
12 after a certain point in time. But prior to  
13 that they showed Credit Manager or something  
14 like that. And the Equifax ones said Equifax,  
15 so, I mean, they're -- it's pretty easy to  
16 figure out.

17 And this one here says True Credit on  
18 11/2/90. So, True Credit specifically  
19 identified with that specific account number.  
20 And that phone number that's next to it, that  
21 (800) 492-3292, matches the one that's on Page  
22 11267 which just says credit report. So, I  
23 don't believe that TrueLink would be allowing  
24 multiple people to use its phone number, but  
25 that's just me.

1 Q. Okay. So, I think you make a pretty  
2 compelling argument that those two entries are  
3 probably related to True Credit.

4 A. Uh-huh.

5 Q. But what about the other two entries?  
6 Like if you look at the entry on the fourth page  
7 for January 27, 2003, there's a different phone  
8 number and it doesn't say True Credit.

9 A. That's TransUnion. And I do believe  
10 producing TransUnion would be compelling to this  
11 case. Would you not think?

12 MS. YEAGER: I'm sorry, what  
13 Bates stamp number are you on, please?

14 THE WITNESS: He's on 11258.

15 Q. (BY MR. O'NEIL) I -- okay. Well, I  
16 understood perhaps erroneously, that the purpose  
17 of producing these records is to determine the  
18 amount of money you paid to True Credit. But  
19 you're telling me now that it includes moneys  
20 paid to TransUnion?

21 A. Well, it's very difficult from where I  
22 sit, because this is in '03, sir, for me to tell  
23 you specifically which entity owned this account  
24 in '03. That would be something for you all to  
25 determine. I can only tell you I went to a

1 website, clicked on a button, purchased a  
2 product. I cannot tell you which corporate  
3 entity had its hand in this particular account.

4 Q. Okay. Well, let's step back here,  
5 Mrs. Millett, and I guess we're going to have to  
6 go over some questions that I think we have to.

7 As part of your lawsuit, you're seeking  
8 the return of moneys that you paid to True  
9 Credit, right?

10 A. Right.

11 Q. Okay. And the basis for that, and  
12 correct me if I'm wrong, is that you believe the  
13 product was not as promised?

14 A. Correct.

15 Q. And, therefore, you should get your  
16 money back?

17 A. Correct.

18 Q. Okay. You think you should get all  
19 your money back?

20 A. Well, in some of these particular  
21 cases, like for example this one here on  
22 1111258, some of these credit reports were  
23 purchased because the product was malfunctioning  
24 and was sending blank alerts.

25 Q. Well, I think you're probably

1 misspeaking then. You first bought a product  
2 from True Credit in August of 2003, do you  
3 recall that?

4 A. Yes, I do.

5 Q. Okay. This reflects a purchase of a  
6 product in January of 2003?

7 A. Correct.

8 Q. You're not seeking a return of this  
9 money?

10 A. No, that's not what I'm --

11 Q. Okay. Well, that's what I'm trying to  
12 get at, ma'am.

13 A. Well --

14 Q. I'm trying to figure out --

15 A. And here's where the clarification --

16 Q. Can I just ask a question?

17 A. Can I finish please?

18 Q. Well, there's no question pending, but  
19 go ahead. But this is not going to the time  
20 that I get to take this deposition. But go  
21 ahead, Mrs. Millett.

22 A. Well, the problem you have with that is  
23 the lawsuit actually goes back to 2001. So, in  
24 that particular instance, this purchase that may  
25 have come from True Credit's website in



1 January 2003 would be covered by that. Would it  
2 not? In the terms of the general class. So, I  
3 can't sit here and say that just because I  
4 bought my product in August of 2003 that that  
5 24.95 is not relevant to this case. That's the  
6 point I'm trying to make.

7 Q. Okay. Well, with all due respect, I'm  
8 not really interested in your theories of  
9 relevance. I'm trying to figure out what this  
10 document means.

11 At trial, if we ever get there, you're  
12 going to ask that some money be paid to you  
13 because you paid money to True Credit for a  
14 product that you believe was not as promised.  
15 What I'm trying to figure out is how much are  
16 you going to ask for. Do you know? Do you know  
17 how much money you paid True Credit for credit  
18 monitoring services?

19 A. 10.95 a quarter.

20 Q. Okay. And will you be seeking the a  
21 return of the full 10.95 or some portion  
22 thereof?

23 A. I believe it's the 10.95 per quarter.

24 Q. Okay.

25 A. But I -- I could be wrong. I'm...

1 Q. So, then on page Millett 11260, there's  
2 a purchase of a three-in-one credit report in  
3 June of 2003. Do you see that?

4 A. Yes.

5 Q. Are you seeking the return of that  
6 money from TrueLink?

7 A. I don't -- you asked me to produce --  
8 no, I'm not.

9 Q. Okay.

10 A. Because you asked me to produce the  
11 banking records, and so, you know, if I do it  
12 one way -- I'm dang'd if I do and I'm dang'd if  
13 I don't. If I don't produce enough information,  
14 you accuse me of withholding information. I've  
15 now given you every transaction that has  
16 occurred between TrueLink, TransUnion and myself  
17 and all of my banking statements to the best of  
18 my ability.

19 Q. Well, I'm not going to waste anybody's  
20 time telling you what we really asked for and  
21 what your lawyers told us, but. I never asked  
22 for banking records, I just asked for  
23 documentation that would support whatever  
24 amounts of money you're seeking at trial. So, I  
25 didn't ask for these particular banking records.

1           And then on exhibit -- on this exhibit  
2   Millettt 11262, there is an entry on August 8,  
3   2003, for \$20.85. Do you see that, ma'am?

4           A.    Yes.

5           Q.    Okay. And is that a purchase of a  
6   credit report from TransUnion?

7           A.    I'm not sure. I think that is the  
8   original product purchase of the TU credit  
9   monitoring.

10          Q.    Okay.

11          A.    Because it was -- there was additional  
12   stuff tacked on to it, so I'm not -- I don't --  
13   I think it was 10.95 plus whatever, so I think  
14   that's the original purchase.

15          Q.    Okay.

16          A.    And that's what I want you to see. It  
17   didn't come off as monitoring, it says it's a  
18   credit report.

19          Q.    I understand. And you always used the  
20   account number on your debit card for purchases  
21   from True Credit, right?

22          A.    I believe that's on your transaction  
23   log, yes.

24          Q.    Ma'am, I'm asking you and what you  
25   know. Unless you're just going to accept as

1 gospel what is on our transaction log.

2 A. No. I'm just saying the number that's  
3 on your transaction log is my debit card, yes,  
4 it is.

5 Q. Do you have any reason to believe that  
6 you purchased products from True Credit using  
7 anything other than your debit card?

8 A. If they had been used even by any other  
9 debit card, they would still be here. These are  
10 all linked accounts. This is every account I  
11 have all linked together.

12 Q. I'll ask the question again. Do you  
13 have any reason to believe that you paid for  
14 True Credit products using anything other than  
15 your debit card?

16 A. No.

17 Q. Okay. How much money do you seek to  
18 recover? And by "you," I mean you and your  
19 husband. How much money do you and your husband  
20 seek to recover if you prevail in this  
21 litigation?

22 A. I'm sorry, I don't understand the  
23 question.

24 Q. Okay. You understand that you're  
25 seeking money from TrueLink as part of the

1 lawsuit that you and your husband have filed?

2 A. Yeah, that's part of the damages.

3 Q. Okay. And I understand that you're  
4 seeking statutory damages under the Kansas  
5 Consumer Protection Act.

6 A. Okay.

7 Q. I'm not asking about that. I'm asking  
8 about your breach of contract claim.

9 A. Uh-huh.

10 Q. It's a very simple claim in a sense.  
11 Your husband agreed to pay money for a product,  
12 you didn't get what you think was promised,  
13 right?

14 A. Correct.

15 Q. How much do you and your husband  
16 believe -- well, strike that. How much do you  
17 believe you and your husband are entitled to if  
18 you prevail on your breach of contract claim?

19 A. The 10.95 per quarter for the duration  
20 of the subscription.

21 Q. Okay. And when you sued Equifax for  
22 breach of contract because you believe that  
23 their credit monitoring product was not as  
24 represented, you are also seeking a return of  
25 moneys that you paid to Equifax, right?

1 MS. YEAGER: Objection.

2 Relevance.

3 A. Yes. The moneys that were paid to  
4 Equifax, yes. And their particular case I think  
5 there were different accounts too out there in  
6 Georgia. There was a CROA account I think too.

7 Q. (BY MR. O'NEIL) Well, you had a CROA  
8 account in the case against TrueLink, right?

9 A. Yeah, but it was dismissed already.

10 Q. But you understand that your claim  
11 under the CROA was for the return of moneys that  
12 you paid for the product?

13 A. Oh, yes, I understand that.

14 Q. Okay. So, once again, you're seeking a  
15 return of money that you paid, right?

16 A. Right.

17 Q. Okay. And was Equifax charging you  
18 roughly the same amount TrueLink was, about 11  
19 bucks a quarter for the credit monitoring  
20 service?

21 A. No --

22 MS. YEAGER: Objection.

23 Relevance.

24 A. Equifax is an annual subscription.

25 Q. (BY MR. O'NEIL) Okay. So, how much

1 were you paying them?

2 MS. YEAGER: Objection.

3 Relevance.

4 A. I believe it's either 89.95 or 79. One  
5 is 89.95 and the other one is 79.95, so.

6 Q. (BY MR. O'NEIL) So, you paid about 90  
7 bucks a year for credit monitoring from Equifax?

8 A. Uh-huh.

9 MS. YEAGER: Objection.

10 Relevance.

11 Q. (BY MR. O'NEIL) How many years did you  
12 buy credit monitoring from Equifax?

13 MS. YEAGER: Can I have a  
14 standing objection to any other questions that  
15 pertain to the other litigation and of her  
16 consumer monitoring products?

17 MR. O'NEIL: On relevance  
18 grounds?

19 MS. YEAGER: Yes.

20 MR. O'NEIL: Sure. Sure. I'll  
21 rephrase the question for Mrs. Millett.

22 Q. (BY MR. O'NEIL) So, you purchased  
23 credit monitoring from Equifax for about three  
24 years?

25 A. I started Equifax in 2002.

1 Q. Okay. And when did you end that  
2 subscription?

3 A. It lapsed just before the TU  
4 subscription lapsed.

5 Q. So about the end of 2006?

6 A. Somewhere in there, yeah.

7 Q. Okay. So you -- roughly, you paid  
8 Equifax about \$270 for their credit monitoring  
9 service?

10 A. Yeah, give or take.

11 Q. All right. And that's what you would  
12 want back from Equifax if you went to trial and  
13 prevailed on your breach of contract claim,  
14 right?

15 A. Yes.

16 Q. So, to your knowledge, does Exhibit 28  
17 reflect all the moneys that you paid to True  
18 Credit for credit monitoring?

19 A. To the best of my knowledge, yes.

20 Q. Okay. It looks like it also includes  
21 money that you paid to TransUnion, money --

22 A. Or TrueLink for credit reports, yeah.

23 Q. Thank you, I was about to say that,  
24 yeah. Okay. Are you aware that we recently  
25 obtained a settlement agreement from counsel for



1 Ford Motor Credit Company?

2 A. Yes, I'm aware.

3 Q. Okay. And so they've consented to you  
4 talking about the settlement agreement? Do you  
5 understand that?

6 A. Yes, I do.

7 Q. Okay. Have you read that settlement  
8 agreement recently?

9 A. No, I have not.

10 Q. Okay.

11 A. So, you'd have to refresh my  
12 recollection.

13 Q. Do you know how much money you received  
14 from Ford Motor Credit in exchange for releasing  
15 your claims and dropping your lawsuit against  
16 them?

17 A. I didn't receive any money.

18 MR. O'NEIL: And, Joyce, I got  
19 yesterday -- I just realized I'm sitting here, I  
20 got yesterday a copy of the settlement agreement  
21 between the Milletts and Bank of America. Did  
22 you get a copy of that from him?

23 MS. YEAGER: I did not see that  
24 in the mail yet.

25 MR. O'NEIL: Yeah, he sent it to

1 me by e-mail yesterday, and it just donned on me  
2 as I was walking out the door that I'm not sure  
3 you got the copy of it.

4 MS. YEAGER: No, I don't think I  
5 did. I haven't seen it yet. If he mailed it, I  
6 haven't seen it yet.

7 (M. Millett Exhibit 29 was marked  
8 for identification by the reporter.)

9 Q. (BY MR. O'NEIL) Mrs. Millett, I'm  
10 handing you what's been marked as Exhibit No.  
11 29, which I'll represent to you is a document I  
12 received from counsel for Bank of America  
13 yesterday.

14 A. Yes.

15 Q. They had, you know -- as you may know,  
16 your lawyers said, you know, you can have access  
17 to this information, but you have to get the  
18 consent of the other side, and we did that with  
19 Bank of America. And you and your husband --  
20 well, strike that.

21 Let me refer you to Page 5 of this  
22 exhibit. Is that your signature?

23 A. Where?

24 Q. Page 5, Mrs. Millett.

25 A. Hold on a second. Yes, it is.

1 Q. Okay. And that's your husband's  
2 signature as well, isn't it?

3 A. Yes, it is.

4 Q. Okay. And do you recall that in  
5 exchange for you and your husband dropping all  
6 of its claims against Bank of America, that you  
7 and your husband and your lawyers  
8 ?

9 A. Yes.

10 Q. Okay. And part of the claim that you  
11 had against Bank of America was that they had  
12 wrongfully denied your husband credit, right?

13 A. No. Part of the -- the big issue with  
14 Bank of America was the fact that they had  
15 accounts opened for Abundio Perez at the same  
16 bank at the same time we had all our money in  
17 that bank.

18 Q. Okay. If you go to the first page of  
19 Exhibit 29, Mrs. Millett.

20 A. Uh-huh.

21 Q. The fourth "whereas" clause says,  
22 "Whereas, on February 9, 2005, Mr. Millett was  
23 turned down by Bank of America for a Bank of  
24 America credit card." Do you see that?

25 A. That is correct.

1 Q. Okay.

2 A. That came out of the mediation. I was  
3 instructed by the Bank of America  
4 representatives to go back to the house and  
5 apply for the Bank of America credit card, and  
6 we were denied. [redacted]

7

8

9 .

10 Q. Okay. So, is it fair to say in your  
11 mind that the denial of credit raised the  
12 settlement value of your claims?

13 A. I don't think necessarily so that it  
14 would have altered very much. Bank of America  
15 also had automobile loans and credit card loans  
16 for Mr. Abundio Perez, and those existed before  
17 that occurred.

18 Q. Let me direct your attention to Page 3  
19 of Exhibit 29, Mrs. Millett. Paragraph 9  
20 provides that Bank of America would furnish your  
21 lawyers with copies [redacted]

22 . Do you see that,  
23 ma'am?

24 A. Yes, sir.

25 Q. Did they do that?

1 A. Yes, sir.

2 Q. And then Paragraph 9 further expressly  
3 states

4 [redacted]

5 ?

6 A. Yes.

7 Q. Okay. To your knowledge, have those  
8 documents been turned over to TrueLink in this  
9 case?

10 A. I don't know, I'd have to look at this  
11 document list to see for sure.

12 Q. Well, I can do that, ma'am, I don't  
13 want to waste your time. I didn't see it in  
14 there.

15 To your knowledge, did you ever see a  
16 TransUnion credit report that was pulled by Bank  
17 of America?

18 A. I'm not sure if the Bank of America  
19 credit report actually came from TransUnion or  
20 not. I think it was -- I'm not sure if it was  
21 Experian or Equifax.

22 Q. Okay.

23 A. But my recollection might be faulty.

24 Q. But you do recall seeing some credit  
25 report issued to Bank of America on Mr. Perez?

1           A.    Yes.  And it may have been even for  
2   multiple credit agencies, but I don't -- it's  
3   not a standard format.  It's not like, oh, it's  
4   title and it says, oh, here's a TransUnion  
5   report and here's Experian.  It's kind of like  
6   one of those computer printout things that like  
7   electronically was generated type thing.

8           Q.    I understand.  To your knowledge, have  
9   all of the credit reports that you received  
10  regarding Mr. Perez been produced in this  
11  litigation?

12          A.    That would be a question for my  
13  lawyers.  I mean, they keep all those.  These --  
14  those are highly confidential documents, so they  
15  would keep all those.  And probably -- I might  
16  not even have copies of those at the house.

17          Q.    Paragraph 11 on the same page,  
18  Mrs. Millett, is entitled "Additional  
19  Communication with TransUnion."                                 [redacted]

20  
21  
22  
23   ?

24          A.    Where?

25          Q.    I'm sorry, it's Paragraph 11, it's the

1 second sentence.

2 A. Yes. Because the denial of credit on  
3 2005 I believe was, that one, was related to  
4 TransUnion.

5 Q. Okay. Did you ever see any -- okay, so  
6 you think it was -- there was a TransUnion  
7 credit report that Bank of America pulled on  
8 your husband?

9 A. On Steve, but not on Abundio.

10 Q. Okay.

11 A. That's what the distinction is.

12 Q. Okay. And you've seen that credit  
13 report?

14 A. I'm sure I have.

15 Q. Okay. I haven't, so that's why I was  
16 asking. It hasn't been produced to us. Have  
17 you ever seen any communications between  
18 TransUnion and Bank of America regarding the  
19 denial of credit in February 2005?

20 A. [redacted]

21  
22  
23  
24  
25 It's not like somebody called

1 somebody on the phone or there's a letter  
2 somewhere. And I believe it's electronic.

3 Q. But when you saw it, it was in paper  
4 format, right?

5 A. What?

6 Q. The credit report that TransUnion  
7 delivered to Bank of America, you saw it in  
8 paper form, right?

9 A. I'm not sure if I saw it in paper form,  
10 sir, or electronic format. I handle a lot of  
11 PDFs, they look like paper but they're not.

12 Q. In any event, you saw it?

13 A. I'm sure that I did at the time. I  
14 don't specifically recall what it looks like  
15 sitting here now, but that was in 2005.

16 Q. I don't know what it looks like either.

17 MR. O'NEIL: Maybe we can go off  
18 the record for just a second, I want to talk to  
19 counsel. Can we just go off the record?

20 VIDEOGRAPHER: Sure. The time is  
21 11:13 AM. We're going off the report.

22 (Off the record.)

23 VIDEOGRAPHER: We're back on the  
24 record. The time is 11:20 AM.

25 Q. (BY MR. O'NEIL) Mrs. Millett, you and



1 your husband are not claiming in this action  
2 that TrueLink provided information to a third  
3 party that resulted in a credit denial, right?

4 A. I don't know that -- I don't know.

5 Q. Okay. I understand that there's facts  
6 you may not know. But what I think you do know  
7 is what you're claiming in this case. Are you  
8 claiming in this case that TrueLink provided  
9 information to a third party who was considering  
10 a credit application of your husband that  
11 resulted in a denial of that application?

12 A. I don't know.

13 Q. You don't know if you're claiming that  
14 or not?

15 A. Well, no, I know I'm not claiming that,  
16 that this is a breach of contract claim.

17 Q. Okay. You had a claim against -- okay.  
18 So, you're not claiming that TrueLink provided  
19 information which led to a credit denial; is  
20 that correct?

21 A. Not in this action, no.

22 Q. Okay. Do you believe that your husband  
23 was unfairly denied credit since August of 2003?

24 A. On several occasions.

25 Q. Okay. And do you believe that that was

1 a result of any action by TrueLink?

2 A. I can't say. I don't know who produces  
3 what at TransUnion.

4 Q. I'm not asking about TransUnion, ma'am,  
5 I'm asking about TrueLink.

6 A. I understand that, but TrueLink is a  
7 wholly owned subsidiary of TransUnion.

8 MR. O'NEIL: Can you please read  
9 back my original question, Miss Court Reporter.

10 (Whereupon, the requested portion  
11 of the record was read by the reporter.)

12 A. I don't know.

13 Q. (BY MR. O'NEIL) Well, your counsel has  
14 produced documents in this case which relate to  
15 credit denials. You're aware of that, right?

16 A. Yes.

17 Q. And you've looked at those documents,  
18 right?

19 A. Yes.

20 Q. And you've seen -- those documents  
21 identify the source of the information which led  
22 to the credit denial, right?

23 A. Yes.

24 Q. Did any of those documents ever  
25 identify TrueLink as a source of information?

1           A.    No, they don't identify TrueLink as a  
2   source of information.

3                       (M. Millett Exhibit 30 was marked  
4   for identification by the reporter.)

5           Q.    (BY MR. O'NEIL) Okay.  Let me hand you  
6   what's been marked Exhibit 30.  Try to do this  
7   as quickly as possible.  This is a response to  
8   discovery that was filed on behalf of you and  
9   your husband.

10                  I'd like to direct your attention to  
11   Page 22.  Paragraph 34 asks for all documents  
12   which relate to an allegation in the complaint  
13   that, quote, "named Plaintiffs were unfairly  
14   denied credit based upon a credit report  
15   prepared by TransUnion, LLC," closed quote.

16                  Do you see that?

17           A.    Yes.

18           Q.    Okay.  And I'll represent to you that  
19   there's no allegation in the complaint that  
20   either one of you were denied credit based upon  
21   a credit report prepared by TrueLink.  That  
22   doesn't surprise you, right?

23           A.    No, it doesn't.

24           Q.    Okay.  And then in response, your  
25   lawyers referred to two pieces of information.

1 One is a document that's numbered Millett 1006.

2 (M. Millett Exhibit 31 was marked  
3 for identification by the reporter.)

4 Q. (BY MR. O'NEIL) And I'm going to show  
5 that document to you. It's Exhibit 31 for the  
6 record.

7 A. Yeah, this is the Sears one.

8 Q. Okay. And it indicates that Sears  
9 received information from TransUnion, right?

10 A. Yep.

11 Q. And it says that the reason why the  
12 request for credit was denied because Sears was  
13 unable to comply with the consumer statement.  
14 Do you see that?

15 A. Yep.

16 Q. Did you ever have any -- do you have  
17 any further information as to why Sears denied  
18 the application by your husband?

19 A. Yep.

20 Q. And what information is that?

21 A. The Citibank USA, NA, account, which is  
22 also Sears, was relabeled with Steve Millett's  
23 information and was formerly Abundio's account.

24 Q. Where do you get that information?

25 A. Because I talked to them at Citibank

1 USA.

2 Q. Okay. And is there any documentation  
3 of this conversation?

4 A. No --

5 Q. Okay.

6 A. -- there's no documents. I mean, it  
7 was a phone conversation.

8 Q. Okay. So then Sears was being  
9 inaccurate when they advised you under the Fair  
10 Credit Reporting Act that the reason for the  
11 denial was they couldn't comply with the  
12 consumer statement?

13 A. No, that's not accurate.

14 Q. You mean the document from Sears is not  
15 accurate?

16 A. No. I mean, that reason that they  
17 placed there on there is not accurate.

18 Q. Okay. So, Sears lied in this document,  
19 but they told you the truth in some phone call?  
20 Is that your testimony?

21 A. No, I'm not characterizing it that way.  
22 I wish you would quit characterizing things with  
23 certain emotional context and then asking me to  
24 answer yes or no questions.

25 MS. YEAGER: Just answer the

1 question.

2 Q. (BY MR. O'NEIL) Okay. Do you blame  
3 TrueLink for this denial of credit by Sears?

4 A. Well, I don't blame TrueLink per se.  
5 But TrueLink at this point in time should have  
6 notified us that Sears was still reporting data  
7 for Abundio Perez. Because they were calling  
8 them, TransUnion was calling them.

9 Q. TransUnion was calling who?

10 A. Sears.

11 Q. Do you know who at TransUnion called  
12 somebody at Sears?

13 A. No, they were calling Ford too at that  
14 time I think.

15 Q. Who's "they"?

16 A. The people from TransUnion were calling  
17 the remaining open accounts that were still open  
18 on the Abundio Perez file and telling them that  
19 they needed to close them for fraud.

20 Q. And when was that?

21 A. That was in 2005.

22 Q. Okay. And do you have any --

23 A. And 2004.

24 Q. Do you have any like admissible  
25 evidence or documentation regarding these

1 beliefs that you have?

2 A. The Ford documents showed that TU was  
3 calling Ford Motor Credit about the Abundio  
4 Perez accounts.

5 Q. Okay. Let me give you Exhibit 32,  
6 which is another document that was produced by  
7 your lawyers in this case.

8 A. Yep.

9 (M. Millett Exhibit 32 was marked  
10 for identification by the reporter.)

11 Q. (BY MR. O'NEIL) Is this the credit  
12 denial which is referenced in response to  
13 Document Request No. 34?

14 A. I believe it to be so.

15 Q. Okay. And you see of course that this  
16 credit denial was based upon information from  
17 Experian and Equifax, right?

18 A. Yes.

19 Q. You don't have any reason to believe it  
20 was based upon information from TransUnion, do  
21 you?

22 A. No, I don't.

23 Q. Okay.

24 A. That's not -- they didn't cite  
25 TransUnion, so I don't have any reason to

1 believe that.

2 Q. Are there any other credit denials that  
3 you believe your husband suffered as a result of  
4 information provided by TransUnion?

5 A. There is the Bank of America one.

6 Q. But, of course, you haven't produced  
7 that credit report, have you?

8 A. I don't know if I have or haven't, sir.

9 Q. Do you have any information -- do you  
10 know why Bank of America denied your husband  
11 credit?

12 A. Well, they claimed it was because of  
13 some error in the web interface or some error on  
14 somebody's part when the web form was filled  
15 out. But I don't necessarily agree with that  
16 assertion.

17 Q. Well, actually, you did agree to it.

18 A. Well --

19 Q. If you take a look at Exhibit 29,  
20 Paragraph 11 says on February 9, 2005,

21 Milletts' application for a credit card was  
22 denied due to the fact that Millett improperly  
23 completed his online application. And that's in  
24 the agreement that you and your husband signed,  
25 right?



1 A. I understand that, sir.

2 Q. So, are you now saying that --

3 A. But it's --

4 Q. -- you didn't agree to that statement  
5 when you signed this and got [redacted]

6 A. No, do not mischaracterize what I said.

7 What I said is there was a web error. Now,  
8 whether the error -- that does not -- you're  
9 trying to twist improper into something like  
10 somebody made some error on -- due to stupidity  
11 or some other problem. There was some problem  
12 apparently with the web interface. So, yes, the  
13 application was improperly completed on their  
14 end and did not process through their system.

15 Q. But you don't have any reason to  
16 believe that the denial of credit was due to  
17 information received from TransUnion, do you?

18 A. It says so.

19 Q. Where?

20 A. It says, "Bank of America agrees to  
21 provide the Milletts' counsel any communication  
22 between TransUnion and Bank of America in  
23 connection with the denial of credit."

24 Q. Maybe you misunderstood my question.  
25 You don't have any reason to believe that the

1 denial of credit was due not to an online  
2 failure, but to information produced by  
3 TransUnion?

4 A. No, I don't have any reason to believe  
5 that. [redacted]

6

1

2 Q. Have you ever created a blog yourself.

3 A. I had one at one time, yeah.

4 Q. What was it called?

5 A. Well, I had a website Credit Monitoring  
6 Sucks, and then I had some blog postings which  
7 were on a public forum for Fight For Credit  
8 Suit.

9 Q. Is that Fight Back?

10 A. I think it is. But it's been a long  
11 time since I've been there.

12 Q. So, you had a website called "Credit  
13 Monitoring Sucks"?

14 A. Yeah.

15 Q. And that was the URL?

16 A. No, that was the title on the web page.

17 Q. What was the domain name?

18 A. Yahoo.com.

19 Q. Okay.

20 A. It was one of those personal internet  
21 pages.

22 Q. Okay. Well, let me warn you right now  
23 I don't know anything about this, so I'm going  
24 to ask stupid questions about this.

25 A. That's all right.

26 Q. So, you had your own personal website

1 that was on Yahoo.com that was entitled "Credit  
2 Monitoring Sucks;" is that right?

3 A. Yeah.

4 Q. And what period of time was that up and  
5 running?

6 A. That was up and running until -- I took  
7 it down when the Bank of America case settled.

8 Q. Why did you take it down at that point  
9 in time?

10 A. It was part of the mediation.

11 Q. Does that mean as part of the  
12 settlement? Or you were just trying to take it  
13 down to help facilitate settlement?

14 A. Well, I don't think it specifically  
15 enumerated in the settlement agreement that I  
16 would take down the website, but I think it was  
17 requested by Bank of America's counsel and then  
18 I did comply with their request.

19 Q. Well, why did -- do you have any idea  
20 why Bank of America wanted you to take down a  
21 site called "Credit Monitoring Sucks"?

22 A. Because the site had on it verbiage  
23 related to Bank of America, because Bank of  
24 America was one of the entities that we were at  
25 that time suing.

1 Q. Okay. So, you filed your initial  
2 lawsuit against Bank of America and the other  
3 parties in the summer of 2004?

4 A. Right.

5 Q. When did you first create that website?

6 A. I think it was right around the same  
7 time, because it basically went up with a copy  
8 of the TU letter. The top part of it was  
9 redacted, the Social Security number was  
10 redacted, and then it had the filings from when  
11 the lawsuits were filed, the actual original  
12 lawsuit filing.

13 Q. Well, that letter was dated April of  
14 2003.

15 A. Right. But it wasn't posted until I  
16 filed suit.

17 Q. Okay.

18 A. You know, so it was around that time.

19 Q. Okay. So, the website was created  
20 about the same time you filed the lawsuits?

21 A. Maybe a month or two before.

22 Q. Okay.

23 A. But you know...

24 Q. So, say from May of 2004 until the time  
25 you reached your settlement with Bank of

1 America, which I believe was maybe late 2005.

2 Does that sound right?

3 A. Maybe more like April. I want to say  
4 it's more April.

5 Q. April of 2004?

6 A. Yeah, maybe more April, possibly end of  
7 March. It's hard to say.

8 Q. Okay.

9 A. It's been three years.

10 Q. And your settlement with BofA was  
11 reached in July of 2005, so. Okay. What  
12 content was on that website during that time  
13 period?

14 A. I believe I already answered that, but  
15 it was the TU letter, and there was some  
16 verbiage on there about Bank of America. And  
17 then there were links to the -- there were links  
18 to the PDFs of the actual legal filing, which  
19 was the lawsuit we filed.

20 Q. You said there was verbiage regarding  
21 Bank of America?

22 A. Uh-huh.

23 Q. Was their verbiage regarding anybody  
24 else?

25 A. Well, it was verbiage regarding the

1 Bank of America and Ford Motor Credit.

2 Q. Was there any verbiage regarding  
3 TransUnion?

4 A. Well, I mean, they were named on the  
5 site, yes. And, of course, the TU letter was  
6 posted there.

7 Q. Right. You said there was verbiage,  
8 I'm not sure what that means. There was  
9 verbiage regarding Bank of America and Ford  
10 Motor Credit?

11 A. Right.

12 Q. Was there verbiage regarding anybody  
13 else?

14 A. Well, I mean, there was just a  
15 statement on there that -- there was a paragraph  
16 on the page of text,

17  
18 I  
19 took it down.

20 Q. Okay.

21 A. Now, I don't recall exactly what the  
22 verbiage is verbatim. TU's name was on the page  
23 because obviously the TU letter was the main  
24 page.

25 Q. Was there any mention of TransUnion in

1 the verbiage, the paragraph of verbiage?

2 A. There could have been, yes.

3 Q. But you don't recall what that was?

4 A. I don't recall what the specific -- how  
5 I phrased whatever it is I phrased.

6 Q. Whatever it was  
7 right?

8 A. .

9 Q. Okay. But you don't recall what it  
10 was?

11 A. I think it was something to the effect  
12 of you --

13 MS. YEAGER: Don't speculate.

14 A. Okay.

15 MR. O'NEIL: No, wait a minute.

16 No, no, no, no, no, no. She wasn't going to  
17 speculate, she was going to summarize.

18 A. It's something to the effect of it was  
19 about \$300,000 in identity theft and give these  
20 people your money and it'll go unnoticed, or  
21 something along those lines. But whatever it  
22 was, I'm paraphrasing here,

23 .

24 Q. (BY MR. O'NEIL) What did it say about  
25 TransUnion?



1           A.    It didn't say anything about  
2   TransUnion.  TransUnion's letter is the  
3   background of the physical page.

4           Q.    I understand that, ma'am, I'm not  
5   asking about the letter.

6           A.    Okay.

7           Q.    I'm asking about I thought you said  
8   that the TransUnion was in the paragraph of  
9   verbiage?

10          A.    I said they could be, but I don't  
11   specifically recall that.

12          Q.    Okay.  Do you have any copies of any of  
13   the content on the website?

14          A.    No.

15          Q.    You don't have any electronic --

16          A.    No.

17          Q.    Why is that?

18          A.    Because it's electronic.  All it was  
19   was a copy of the TU letter, which I still have  
20   and has been produced, and it was a copy of my  
21   original court filing, which has still been  
22   produced, and it had a web page title and then a  
23   small blurb of paragraph that was typed in the  
24   Yahoo website that I never physically possessed  
25   on my machine.  And when I took the site down,

1 my only options were to destroy the site, were  
2 to delete the site holder or whatever for Yahoo.  
3 And then it gives you a confirmation e-mail that  
4 says the site's been deleted or whatever.

5  
6  
7 Anyhow -- but that's  
8 all you have.

9 Q. Well, I don't have anything, so.  
10 That's why I'm asking these questions, so.

11 A. It's all right.

12 Q. Then you mentioned a blog that you  
13 contributed to?

14 A. That's on I believe the Fight Back  
15 site.

16 Q. Okay. Is there other blogs you've  
17 contributed to besides the Fight Back blog?

18 A. You mean about this case?

19 Q. About anything.

20 A. Well, I mean, there's Microsoft  
21 technical sites or whatever that I've posted on,  
22 but, I mean, you know.

23 Q. Right. Did you post on any blogs  
24 information at all related to any of your  
25 lawsuits, other than the Fight Back blog?

1           A.    Well, I was active in some credit  
2   forums in some other places too on the net, but  
3   I don't know that there's -- I don't know that  
4   they were even -- they're still functioning or  
5   whatnot.

6           Q.    And did you ever print out copies of  
7   these blogs?

8           A.    No.

9           Q.    Do you have any electronic versions of  
10   these blogs?

11          A.    No.

12          Q.    Okay.  I mean, you told us before  
13   you're a pack rat, and you told us before --

14          A.    Yeah.

15          Q.    -- that you've got all these CDs and  
16   you got all this electronic data, right?

17          A.    Right.

18          Q.    You said you've got boxes and boxes of  
19   documents.

20          A.    I have boxes of the legal filings and  
21   papers and the defendants discovery production  
22   and all that kind of stuff, yeah, I have all  
23   that in boxes.

24          Q.    Given all that, why is it that you  
25   don't have any record of the blog or of your

1 website?

2 A. Because those are just -- they're not  
3 important enough to catalog. And it's like --  
4 I'm trying to understand where you're going with  
5 this. I don't think you understand the medium.  
6 I mean, if you go out and post in forums, first  
7 of all, I don't own the forums that I posted in.

8 Second of all, you don't save copies  
9 just because you went out and visited, like I go  
10 to Microsoft and visit their technical forum all  
11 the time.

12 Q. Well, you could.

13 A. You could, but --

14 Q. You could.

15 A. You could, but you don't.

16 Q. Okay. I mean, the blog listings, you  
17 know, haven't been very helpful to you in the  
18 litigation, right?

19 MS. YEAGER: Objection. Vague.

20 A. I'm sorry?

21 Q. (BY MR. O'NEIL) The -- Experian found  
22 some of your blogs, right?

23 A. You mean they found some forums?

24 Q. Okay, sorry, wrong terminology. As I  
25 understand, it's not your blog?

1 A. Right.

2 Q. You just posted to it?

3 A. Right.

4 Q. Experian found some postings that you  
5 made to the Fight Back blog, right?

6 A. Yeah. Uh-huh.

7 Q. And they questioned you about it in  
8 your deposition?

9 A. Of course, uh-huh.

10 Q. Right. And then of course  
11 idn't like your website, right?

12 A. No.

13 Q. Okay.

14 MS. YEAGER: Melody, you need to  
15 take your hands down please.

16 THE WITNESS: I'm sorry.

17 Q. (BY MR. O'NEIL) I see a reference in  
18 one of these blogs to  
19 "www.geocities.com/creditmonitoringsucks"?

20 A. Yes, that's at Yahoo.

21 Q. That's at Yahoo?

22 A. Yahoo owns geocities.

23 Q. Okay. And then on your postings, you  
24 gave your e-mail address and told people they  
25 could e-mail you about credit monitoring and

1 other identity theft issues, right?

2 A. Yeah.

3 Q. Okay. And did you get those types of  
4 e-mails?

5 A. I got some.

6 Q. Okay.

7 A. But not really that many.

8 Q. And do you remember what your e-mail  
9 address was?

10 A. I don't recall, but I'm sure you'll  
11 tell me.

12 Q. Was it creditmonitoringsucks@yahoo.com?

13 A. Yes.

14 Q. Okay. And you testified about some of  
15 these postings in your Experian deposition,  
16 right?

17 A. Yes.

18 Q. And all that testimony is accurate,  
19 right?

20 A. Yes.

21 Q. Okay. You gave a lot of advice to  
22 people about what they should do if they're a  
23 victim of identity theft on these postings. Do  
24 you recall that?

25 A. Yes.

1 Q. Okay. And, you know, one of your  
2 pieces of advice was to go to the FTC website  
3 and download the ID theft affidavit and get that  
4 signed, right?

5 A. Yeah.

6 Q. Did your husband ever do that?

7 A. Yes.

8 Q. He did?

9 A. Uh-huh.

10 Q. Okay.

11 A. It's 17 pages and it's got to be  
12 notarized.

13 Q. Do you know, did you ever give that to  
14 your lawyers to produce to TrueLink in this  
15 case?

16 A. I believe -- where is the document of  
17 production? It's already on that thing, on the  
18 CD somewhere. It's on my two core CDs that they  
19 give out for all my document productions.

20 Q. Well, part of the problem is I don't  
21 know what you gave your lawyers, I only know  
22 what I got from your lawyers. So you gave that  
23 affidavit --

24 A. You have to have it, because you  
25 produced the police report at my last

1 deposition.

2 Q. The police report was just produced to  
3 by itself. We never got the FTC affidavit,  
4 that's why I'm asking.

5 So, your husband did sign a 17-page  
6 identity theft affidavit on the FTC forum?

7 A. Yes, and it was notarized by a Bank of  
8 America official.

9 MR. O'NEIL: Okay, can we get a  
10 copy of that. Joyce.

11 MS. YEAGER: (Indicating.)

12 MR. O'NEIL: Thank you.

13 Q. (BY MR. O'NEIL) And then in one of your  
14 pieces of advice is that you have to request a  
15 seven-year fraud alert by registered mail. Do  
16 you recall that advice?

17 A. Yes.

18 Q. Did you or Mr. Millett ever do that?

19 A. I believe my attorneys filed a report  
20 and requested a seven-year fraud alert. I don't  
21 believe that I sent it by registered mail. I  
22 think Adler took care of that, but I don't  
23 recall exactly how that worked.

24 Q. Have you ever seen this, this request  
25 by your attorney?



1 A. What?

2 Q. For a seven-year fraud alert? Did you  
3 ever see -- you said you thought that Mr. Adler  
4 had submitted a seven-year fraud alert request  
5 to the bureaus. Have you ever seen that  
6 request?

7 A. Well, I believe we have a seven-year  
8 fraud alert.

9 Q. Ma'am, you're asking a different  
10 question -- you're answering a different  
11 question. I'm asking, because you told me --  
12 it's another document we haven't seen. You told  
13 me that you never submitted a written request  
14 for a seven-year fraud alert, but you think  
15 Mr. Adler did, right?

16 A. Well, I think -- I don't know if it was  
17 written or by telephone. I don't know if he was  
18 talking to them by phone or if he talked to them  
19 in a letter, so I don't know if it's a document.

20 Q. I guess because you said, yes, he sent  
21 a written request, that's what I thought. But  
22 now you're telling me that you don't know if he  
23 ever did it anyway?

24 A. Well, I'm saying he sent a request. I  
25 didn't use the word "written."

1 Q. Well, you are advising people, quote,  
2 "you are going to have a request a seven-year  
3 fraud alert by registered mail. Yes, I said  
4 registered," closed quote. But you didn't do  
5 that, right?

6 A. I didn't to that no, because my --

7 Q. And your husband didn't do that, right?

8 A. No. Because at that point we already  
9 had legal counsel.

10 Q. And your lawyer didn't do that, right?

11 A. I'm sorry?

12 Q. Your lawyer didn't do that for you  
13 either?

14 A. Not like that, no, I don't guess not.

15 Q. Okay.

16 A. I have all the green cards for what  
17 Adler sent out registered mail, so I, you know.

18 (M. Millett Exhibit 37 was marked  
19 for identification by the reporter.)

20 Q. (BY MR. O'NEIL) Mrs. Millett, I'm going  
21 to show you what's been marked as Exhibit 37,  
22 which was also an exhibit in the -- I think in  
23 the Experian deposition, although I'm not sure.

24 A. Yeah, because it's got the deposition  
25 -- it's got the exhibit on the corner.

1 Q. I'm sorry?

2 A. I said it's got the Experian exhibit  
3 number on the corner.

4 Q. Yeah. Is this a printout from a blog?

5 A. No, this is a printout from a forum.

6 Q. I thought you said Fight Back was a  
7 blog?

8 A. She has a blog page, but this is the  
9 forums.

10 Q. Got it. So, it's a printout from a  
11 forum on a blog?

12 A. Right.

13 Q. The first posting, is that by someone  
14 who goes by the name "creditmonitoringsucks"?

15 A. Yes.

16 Q. Okay, is that you?

17 A. Yes.

18 Q. Okay. And so the verbiage on -- wow --  
19 so, all of the verbiage on this forum is all  
20 written by you; is that right? On this exhibit  
21 at least.

22 A. On this posting, yes. This is an  
23 individual single posting. Notice it says "Post  
24 No. 1."

25 Q. So what does that mean?

1           A.    That's the first posting in the thread.  
2           Somebody else could come in behind me and make  
3           additional postings.  And as I testified in the  
4           Experian case, there was one thread that they  
5           produced where other people were responding and  
6           they -- I had to tell them that that was not me  
7           because that was additional posters.

8           Q.    Lawyers don't know this stuff.

9           A.    Right, I understand that and I'm a  
10          technical person, so I'm just explaining it.  So  
11          this is Post No. 1.

12          Q.    You do better with the appellate  
13          process than I do with postings, so I guess you  
14          got me there.  And so this is the first posting  
15          that people can respond to.  However, you also  
16          responded to other people's postings, right?

17          A.    Some, but not much.  Mostly I posted  
18          stuff for people to --

19          Q.    Uh-huh.

20          A.    -- have as reference material.

21          Q.    Now, on the first page, you identify  
22          two types of identity theft, right?

23          A.    Yes.

24          Q.    Okay.  And those are the only two types  
25          of identity theft that you discuss, right?

1 A. At that time, yes.

2 Q. Okay.

3 A. Uh-huh.

4 Q. And then you define "true name fraud."

5 A. Uh-huh.

6 Q. And then you refer to something called  
7 "SSN only fraud"?

8 A. Correct.

9 Q. And it said, you say, "They say it is  
10 the fastest growing." Who's "they"?

11 A. Well, I mean, like for example, the FTC  
12 had sent out a -- when this was posted, there  
13 was some kind of like news article or something  
14 where they were talking about SSN fraud as being  
15 the fastest form of identity theft. So, it's  
16 topical at that time period.

17 Q. So, your recollection is that the FTC  
18 identified SSN only fraud as the fastest growing  
19 type of --

20 A. It was a news article. I don't  
21 recall --

22 Q. Okay.

23 A. -- if it was the FTC or what entity is  
24 the one that said it, but I think it was  
25 somebody in the government because they're the

1 ones that keep those kinds of statistics. Could  
2 be the GAO too.

3 Q. Now, in 2003 --

4 A. Uh-huh.

5 Q. -- when you unfortunately had to learn  
6 all about identity theft and you were learning  
7 all about identity theft, did you understand at  
8 that time that there was different types of  
9 identity theft?

10 A. No. Are you talking about when I first  
11 discovered the identity theft?

12 Q. Well, actually, let's say August 2003.

13 A. Yes.

14 Q. Did you understand at that point that  
15 there was more than one type of identity theft?

16 A. Well, I mean, I understood that there  
17 were like credit card identity theft, and then I  
18 understood that there was like identity theft.  
19 But I didn't necessarily understand at that  
20 point the distinction like between true name  
21 identity theft and just use of a Social Security  
22 number.

23 Q. Okay.

24 A. So, I mean, that's one of those  
25 evolving knowledge kind of things.

1 Q. Okay. So, in August of 2003, you  
2 didn't understand that there were different  
3 types of identity theft; is that right?

4 A. Identity, I mean, to me identity theft  
5 was identity theft. I mean, we knew that our  
6 identity theft involved the use of my husband's  
7 Social Security number. But, for example, I  
8 didn't know about synthetic identity fraud, I  
9 didn't know about mortgage fraud with the FHA.

10 I mean, there's so many different forms  
11 of identity theft now that are out there that at  
12 that point in time I wasn't necessarily aware of  
13 all of them.

14 Q. But my question was, were you aware  
15 that there was more than -- there were types of  
16 identity theft?

17 A. Yeah, there were types of identity  
18 theft and I knew that in August of 2003.

19 Q. Okay. And did you think that the  
20 credit monitoring product that you purchased  
21 from TrueLink would protect you and your husband  
22 against all those types of identity theft?

23 A. Well, it was advertising complete  
24 identity theft protection.

25 Q. Ma'am, can I just please have you

1 answer my question? Rather than tell me  
2 something else. I was asking what you thought.

3 A. Yes.

4 Q. Okay. So, just so the record's clear,  
5 you thought in August of 2003 -- you were aware  
6 that there were different types of identity  
7 theft and you thought that the product that you  
8 purchased on behalf of your husband would  
9 protect against all of it?

10 A. All of the ones that I knew about at  
11 that point.

12 Q. Okay. Page 2 of Exhibit 37,  
13 Mrs. Millett.

14 A. Uh-huh.

15 Q. Like the third paragraph down, there's  
16 a paragraph that begins, "I know they exist, I  
17 have personally seen them," do you see that?

18 A. Yep.

19 Q. Says, "I have copies of the TransUnion  
20 sub file accounts from TransUnion."

21 A. Yep.

22 Q. What's that in reference to?

23 A. That's a reference to the TU letter.  
24 Has all the sub file accounts on it. The  
25 accounts that are on Abundio Perez's file.



1 Q. Okay. Have you seen FTC reports that  
2 talk about the fact that the credit bureaus  
3 maintain multiple files with the same Social  
4 Security number?

5 A. I'm sorry, I don't understand the  
6 question.

7 Q. Okay. Well, I mean, I think what  
8 you're talking about here, what I've seen you  
9 write about is complaining about the fact that a  
10 credit bureau maintains more than one --  
11 sometimes can maintain more than one file that  
12 has the same Social Security number, right?

13 A. Right.

14 Q. Okay. And are you aware that the FTC  
15 has acknowledged that practice in its reports  
16 regarding identity theft?

17 A. I -- not specifically, no.

18 Q. Okay. So, then you wouldn't know what  
19 the FTC has said about that; is that right?

20 A. Well, I know that the FTC said that  
21 file segregation was illegal, as pertains to  
22 credit repair organizations. So, the part that  
23 was incongruent to me was the fact that the FTC  
24 allows sub files in the credit reporting  
25 context, but doesn't allow in the credit

1 reporting context, so.

2 Q. Do you understand why the FTC has  
3 stated on the record that there are reasons why  
4 the bureaus do that?

5 A. I understand that -- I haven't seen any  
6 of that testimony if that's the case.

7 Q. Okay. And you understand that the FTC  
8 acknowledges that it's not a bad practice to not  
9 have credit bureaus matched solely on Social  
10 Security numbers?

11 A. I would disagree with that assertion by  
12 the FTC because --

13 Q. Ma'am, I'm not asking for your opinion  
14 about it. I'm asking if you're aware that  
15 that's what the FTC has said?

16 A. No, I'm not aware of that. And I would  
17 love to see the public documents that would  
18 enumerate that fact for me.

19 Q. Well, they're out there.

20 MR. O'NEIL: I think we have to  
21 change the tape. Let's go off the record.

22 VIDEOGRAPHER: The time is  
23 3:05 PM. We're going off the record.

24 (Recess.)

25 VIDEOGRAPHER: The time is

1 3:14 PM. We're back on the record.

2 MR. O'NEIL: As I indicated off  
3 the record, I have no further questions at this  
4 time. I appreciate Mrs. Millett's patience. I  
5 don't envision having to continue this  
6 deposition, however, once again you've  
7 identified more documents that have not been  
8 produced. We've established that certain  
9 documents that weren't produced should have  
10 been, so once we get those documents, I reserve  
11 the right to question Mrs. Millett on those  
12 documents, but hopefully that won't be  
13 necessary.

14 EXAMINATION

15 BY MS. YEAGER:

16 Q. Mrs. Millett, I need to ask you some  
17 questions about both of your depositions. Your  
18 deposition from -- pardon me -- I need to ask  
19 you questions about both of your depositions,  
20 both from today and from the prior deposition  
21 that you gave in May.

22 When I ask you questions about your May  
23 deposition, if you don't remember the answer,  
24 feel free to say that you don't remember,  
25 because I know that's been some time and we

1 can't all remember everything.

2 So, if you don't remember particular  
3 testimony and I ask you about it, just feel free  
4 to say that you don't remember.

5 A. Okay.

6 Q. When we were here in May, we talked  
7 about some documents that were marked as an  
8 exhibit, and the documents pertained to the  
9 enrollment form from 2004 for the credit  
10 monitoring product. Do you remember those  
11 documents?

12 A. No.

13 Q. Okay. Was there at one point -- do you  
14 recall testimony about some of the documents  
15 from TransUnion that had a birth date FOR  
16 Mr. Millett that was not his actual birth date?

17 A. Yeah, I recall that. I believe it's on  
18 the whatever the user screen thing that you all  
19 brought to the deposition was.

20 Q. And do you recall what birth date was  
21 in that particular box?

22 A. I believe it was like 1/1/1901 or  
23 something like that.

24 Q. And did you enter that date yourself?

25 A. No, I did not.

1 Q. And do you have reason to know why the  
2 date is reflected on that document in the manner  
3 that it is?

4 A. Yes, I do. In preparation for the  
5 depositions that were taken for the defendants  
6 over the last two, three weeks ago, we found in  
7 the documents in one of the logs that was from  
8 TrueLink that that was a default date entered  
9 for subscription monitoring customers that  
10 existed prior to the implementation of the birth  
11 date routine.

12 Q. So, you did not ever lie when you  
13 filled out any documents for TransUnion or  
14 TrueLink?

15 A. No.

16 Q. We've also talked about the fact that  
17 there are a lot of documents connected with this  
18 case, and we had some questions today about that  
19 as well. In your May testimony, you talked  
20 about 15 or 20 boxes or 12 totes. Do some of  
21 those documents contain discovery that was  
22 produced from other defendants in other  
23 litigation?

24 A. Yes, they do.

25 Q. And has -- have some of those documents

1 that have been produced by other defendants in  
2 other litigation been designated confidential by  
3 those defendants?

4 A. Confidential or highly confidential.

5 Q. And so those are not free for us to  
6 disclose to the counsel for TransUnion; is that  
7 correct?

8 A. As far as my understanding is, no. I'm  
9 not supposed to disclose those to anybody.

10 Q. I'd like to ask you some questions  
11 about the Fair Isaac claim that was originally  
12 filed. In your May deposition, you indicated  
13 that you believed that Fair Isaac count or the  
14 Fair Isaac entity had been dismissed as part of  
15 a settlement agreement; is that correct? Do you  
16 recall that testimony?

17 A. Yes, I recall that testimony.

18 Q. Do you still think that that's the  
19 case?

20 A. No, I do not.

21 Q. And why is that?

22 A. There was a settlement, but there's no  
23 agreement associated with it. It's basically  
24 that we all agreed that they weren't going to be  
25 a party, and we kicked them out.

1 Q. When you enrolled initially for the  
2 credit monitoring product, did you select the  
3 three items that were purchased that were  
4 reflected on the enrollment screen?

5 A. I don't recall specifically checking  
6 all three boxes. I thought when you clicked the  
7 link on the main page, it took you to another  
8 page, and then all three of the boxes were  
9 already selected because it was a package deal.

10 Q. Do you know whether all three of those  
11 products that were listed on the enrollment  
12 documents are still offered at this time?

13 MR. O'NEIL: Objection. Lack of  
14 foundation. I don't know what products you're  
15 talking about. Or what form you're talking  
16 about, for that matter.

17 Q. (BY MS. YEAGER) Do you recall the  
18 testimony about the enrollment that you did for  
19 the credit monitoring product?

20 A. The web form?

21 Q. Yes.

22 A. The online web form had like the  
23 monitoring and then it had scoring or score  
24 training or whatever. It was some package  
25 promotional deal that you clicked on the link

1 when you logged in and it put the whole package  
2 together. Because I believe the subscription  
3 was more than 10.95 at that time when I signed  
4 up. The enrollment was like 20 bucks or  
5 something. And then I think subsequently  
6 certain of those items were discontinued because  
7 the prices of monitoring dropped to like 10.95 a  
8 quarter.

9 MR. O'NEIL: Joyce, it might be  
10 helpful to me, because I have a copy of her May  
11 deposition, if you're referencing testimony if  
12 you could give me a page number. You don't have  
13 to --

14 MS. YEAGER: I'd be happy to do  
15 that.

16 MR. O'NEIL: Because I'm --

17 MS. YEAGER: I would be happy to  
18 do that.

19 MR. O'NEIL: None of these  
20 questions make any sense to me because I don't  
21 know what you're talking about.

22 MS. YEAGER: I'd be happy to do  
23 that.

24 MR. O'NEIL: Thank you.

25 Q. (BY MS. YEAGER) I apologize that this



1 is taking a minute, but some of these -- some of  
2 your prior testimony was clarified with your  
3 testimony today, so I'm skimming through my  
4 notes. I apologize that it's taking a minute  
5 for me to do that.

6 MR. O'NEIL: Take your time,  
7 Joyce.

8 Q. (BY MS. YEAGER) In your testimony from  
9 May 3rd beginning on about Page 186, you offered  
10 some testimony about how you proceed through a  
11 web page, and you made reference to clicking on  
12 links. Do you recall that testimony?

13 A. No, I don't.

14 Q. You are experienced at manipulating web  
15 pages; is that correct?

16 A. I would be experienced with operating  
17 web pages, yeah.

18 Q. Why is -- why does a web page have a  
19 link? What is a link? I'm sorry, that was two  
20 questions. What is a link on a web page?

21 A. A link usually is like a hot spot in  
22 the actual web page where you can put your  
23 cursor over it and it will change, and you can  
24 click on it then and then that link will take  
25 you to either another part of the site, it might

1 take you to another web page. It will take you  
2 anywhere else that the internet can resolve for  
3 the name that's attached to the link.

4 Q. In your prior testimony, there was some  
5 discussion about the fact that you could not  
6 tell if certain documents were related because  
7 you didn't have all of the connection pieces for  
8 all of the links that you visited; is that  
9 correct?

10 MR. O'NEIL: Objection.  
11 Foundation. I have no idea what you're talking  
12 about. What web pages? Whose pages? True  
13 Credit's pages?

14 MS. YEAGER: The enrollment web  
15 pages.

16 MR. O'NEIL: Of True Credit?

17 MS. YEAGER: It wasn't True  
18 Credit at the time -- yes, True Credit, yes.

19 MR. O'NEIL: I'm sorry, if I  
20 could just ask her to read back the question,  
21 and if you could tell me what page you're  
22 referring to. Because I don't remember that  
23 testimony, that's why I'm asking.

24 MS. YEAGER: I'm looking at Page  
25 185, the bottom of it, through 189. And then

1       there's some additional testimony on Page 198.

2                   MR. O'NEIL:   Thank you.

3                   MS. YEAGER:   And I believe that  
4       it came up again in some additional places as  
5       well.

6                   MR. O'NEIL:   Yeah, I see those  
7       pages.   I don't see any testimony about what you  
8       said.   Maybe I misunderstood your question.   Go  
9       ahead.

10                  THE WITNESS:   I'm sorry, I don't  
11       even know what the question is now.

12       Q.       (BY MS. YEAGER) That's okay, I'll start  
13       over.   And then again on 224.

14                  MR. O'NEIL:   Yeah, because  
15       they're two different -- they're completely  
16       different sites though, so.

17                  MS. YEAGER:   Yeah, I will clarify  
18       the question, thank you.

19       Q.       (BY MS. YEAGER) When you manipulate a  
20       web page so that you click on a link, as I would  
21       refer to it as a layman, how can you tell where  
22       you're going in the internet?

23       A.       You'd have to view the original HTML  
24       code for the actual web page itself.   Because a  
25       lot of links are just some text.   Like for

1 example might say "click here" and it is a link,  
2 and when you click here, the actual address has  
3 been concealed or embedded actually in the  
4 website code.

5 Q. And how can you see that website code?

6 A. You have to view the actual HTML file  
7 or ASP or whatever web programming language that  
8 that particular website has been written in,  
9 whether it's Java or whatever, so that you could  
10 actually tell that that link was directing it  
11 into this page.

12 Q. And are you capable of doing what you  
13 just described?

14 A. Yes, I'm capable of viewing code if I  
15 have it. But to just look at the printout of a  
16 web page, you can't determine where a particular  
17 link might then take you to.

18 Q. But because of your work experience and  
19 your training, you are able to look at HTML  
20 code; is that correct?

21 A. Yes.

22 Q. In your deposition testimony beginning  
23 at the bottom of Page 193 and continuing on, as  
24 I recall, throughout the rest of the deposition,  
25 but particularly 193, 194, there was some

1 discussion about our conversations about getting  
2 banking records. Do you recall that testimony?

3 A. Some of it, yes.

4 Q. Did we have more than one conversation  
5 about ordering banking records?

6 A. Who? You and I?

7 Q. Yes.

8 A. Yes, I had talked to you on numerous  
9 occasions about acquisition of banking records.

10 Q. And that's been an ongoing process for  
11 us in this litigation for some time, has it not?

12 A. Yes, it has.

13 MS. YEAGER: Heather, did I get  
14 my documents together so they're not as tight.

15 MR. O'NEIL: For the record, and  
16 Ms. Schuman will back me up, I got the documents  
17 together.

18 MS. YEAGER: I meant earlier  
19 today in the deposition, she did such a  
20 wonderful job of putting yours in order. Could  
21 you hand me Exhibit 26? I don't seem to have  
22 mine back together.

23 MR. O'NEIL: For the record, I  
24 put the documents together. I don't know what  
25 Ms. Schuman has done. Heather, can you back me

1 up on this one?

2 MS. SCHUMAN: (Indicating.)

3 MS. YEAGER: Let the record  
4 reflect Ms. Schuman is nodding yes.

5 THE WITNESS: Oh my. Legal  
6 silliness in the afternoon on Friday the 13th.

7 MR. O'NEIL: It's so rare that I  
8 get credit for anything, I was just trying to,  
9 you know, get credit for something. The  
10 documents were in excellent order by the way. I  
11 just want to comment on that.

12 Q. (BY MS. YEAGER) Earlier, we were  
13 discussing Exhibit No. 26, and it was the  
14 identity theft, the Aftermath 2003 Report, from  
15 the Identity Theft Resource Center. And you  
16 were being asked questions about Page 5. In  
17 particular, we were discussing the definition in  
18 the first bulleted item of financial identity  
19 theft.

20 A. Yeah.

21 Q. Mr. O'Neil was asking you some  
22 questions about establishing lines in the name  
23 of the victim. Do you recall that testimony?

24 A. Yes.

25 Q. Has there been an instance in which

1 accounts which were opened by Mr. Perez were in  
2 fact changed so that Steven Millett's name was  
3 placed on the accounts?

4 A. Yes, in at least two instances that I  
5 can recall.

6 Q. Is there a name for that sort of  
7 process in the credit reporting industry or  
8 amongst those of you who work in identity theft  
9 about that particular process where an account's  
10 name is changed?

11 A. Well, normally, that's called account  
12 take-over fraud, because normally it happens in  
13 reverse. The thief shows up and takes over your  
14 existing accounts and relabels them with new  
15 addresses or new phone numbers or whatever.

16 But in the case of Social Security  
17 number fraud, what you do see is a lot of it in  
18 reverse. The victim has called and filed a  
19 fraud report, and now the furnishers start  
20 relabeling the accounts with your information  
21 that you provided to them on your FTC affidavit.  
22 And then those accounts then start getting  
23 reported back to the credit bureaus with your  
24 name attached to what used to be a fraudulent  
25 account.

1 Q. So, in your particular instance,  
2 Mr. Perez's use of Steve Millett's Social  
3 Security number actually resulted in a  
4 relabeling of an account; is that correct?

5 MR. O'NEIL: Objection. Lack of  
6 foundation.

7 A. There were two accounts that were  
8 relabeled, one for J.C. Penney's and one for  
9 Home Depot.

10 Q. (BY MS. YEAGER) And did you obtain that  
11 information in the course of this litigation?  
12 Not this particular case, but in the course of  
13 prosecuting the cases that you've brought about  
14 the identity theft?

15 A. Yes. It was -- the information was  
16 produced as a result of I think subpoenas in the  
17 Experian case.

18 Q. And at the time that those accounts  
19 were relabeled, were you informed by anyone?

20 A. No. None of the credit monitoring  
21 products notified me that the accounts were  
22 relabeled.

23 MR. O'NEIL: Objection. Assumes  
24 facts not in evidence.

25 Q. (BY MS. YEAGER) If you could pull out



1 Exhibit No. 34, please.

2 A. Okay.

3 Q. Do you recall a bit of your testimony  
4 about this particular exhibit?

5 A. Yes.

6 Q. Do you know whether or not these were  
7 the only exchanges between counsel in the  
8 process of attempting to negotiate a settlement  
9 of this matter?

10 A. I believe there were more e-mails than  
11 this.

12 Q. Do you know whether or not this was the  
13 last e-mail exchange between counsel concerning  
14 settlement?

15 A. I don't know, but I don't believe so.

16 Q. Are you aware that your attorneys have  
17 an arrangement about how any fees that are paid  
18 from these cases will be divided?

19 A. I believe they have an agreement, but  
20 I've not seen it.

21 Q. Is the agreement that was negotiated  
22 between counsel in the Equifax case similar to  
23 the agreement that is in place for counsel in  
24 this case?

25 MR. O'NEIL: Objection. You

1 would not let her answer my questions on that  
2 topic, so you can't answer -- ask her questions  
3 on that topic.

4 MS. YEAGER: Fair enough.

5 Q. (BY MS. YEAGER) I know that you're not  
6 an attorney, but I do know that you have  
7 extensive experience from these cases. Are you  
8 aware that fraud claims are much more difficult  
9 to establish than, for example, a breach of  
10 contract claim?

11 A. Yes. Fraud is way more difficult to  
12 establish.

13 Q. And why is that?

14 MR. O'NEIL: Objection, lack of  
15 foundation. Vague as to what claims we're  
16 talking about or comparing, but go ahead,  
17 Mrs. Millett.

18 A. The fraud claims require evidence you  
19 may or may not uncover in the course of  
20 discovery. Whereas, a breach of contract is  
21 whether or not they adhered to the terms of the  
22 contract or didn't adhere to the terms of the  
23 contract. And that's what you have is in  
24 writing.

25 Q. (BY MS. YEAGER) Is there a difference

1 between the advertising which was prepared by  
2 Experian and the advertising which was prepared  
3 by TransUnion -- excuse me, by TrueLink? Let me  
4 do that again.

5 Is there a difference between the  
6 advertising prepared by Experian and the  
7 advertising prepared by TransUnion? I did it  
8 again.

9 Is there a difference between the  
10 advertising prepared by Experian and the  
11 advertising prepared by TrueLink?

12 A. Yes. The advertising prepared by  
13 TrueLink does not specifically identify or  
14 enumerate, at least at the time we registered  
15 for the product, which items were specifically  
16 going to be monitored. Whereas, the Experian  
17 website specifically enumerated it was like six  
18 or seven things that they were specifically  
19 going to be monitoring.

20 MS. YEAGER: I think that's all I  
21 have.

22 MR. O'NEIL: I just have a little  
23 bit of follow-up.

24

25

EXAMINATION

BY MR. O'NEIL:

Q. Are you aware that you've accused TrueLink of making fraudulent statements as part of your claims in this case?

A. I'm sorry?

Q. Are you aware that you have accused TrueLink of making fraudulent statements in this case, as part of your Kansas Consumer Protection Act claim?

A. Yes.

Q. Okay. I want to go back to Exhibit 26, I'm not sure you need to look at it, because Ms. Yeager's questions weren't really tied to it. She pointed out that the Identity Theft Resource Center identified financial identity theft as the use of information to establish new credit lines in the name of the victim.

A. Yes.

Q. But then she asked you a different question about some type -- what you termed, she didn't term it, you termed it "account take-over fraud," which is when -- well, tell us what "account take-over fraud" is again?

A. Well, account take-over fraud in

1 identity theft is when the thief comes in and  
2 takes over your account and then has it  
3 redirected.

4 Q. Right. But that didn't happen with the  
5 J.C. Penney or Home Depot accounts, right?

6 A. Well, what happened --

7 Q. Can you just answer the question yes or  
8 no, please?

9 A. Because it's not that simple. It's not  
10 a yes or no question.

11 Q. Okay. I understand what you think  
12 happened, but you're not suggesting that  
13 Mr. Perez committed account take-over fraud with  
14 respect to the J.C. Penney or Home Depot trade  
15 lines, are you?

16 A. No. What I'm suggesting --

17 Q. Okay.

18 A. -- that happened in that particular  
19 instance is that the accounts were relabeled by  
20 the furnishers to include the victim's  
21 information. They were fraudulent accounts to  
22 start with, and they were relabeled with the  
23 victim's information. Then they were reported  
24 to the credit bureaus.

25 Q. But that's not account take-over fraud,

1 is it?

2 A. To the computer system, sir, it's the  
3 same thing. It functions in exactly the same  
4 way.

5 Q. Ma'am, I'm not asking about what  
6 computer systems think. I'm asking under your  
7 definition and the commonly accepted definition  
8 of "account take-over fraud" that's not account  
9 take-over fraud, right?

10 A. No, it's not.

11 Q. Okay. Okay. And then you said in  
12 account take-over fraud, those accounts show up  
13 on the victim's credit report, right?

14 A. Yes.

15 Q. But those accounts never showed up on  
16 Mr. Millett's TransUnion credit report, right?

17 A. That's correct. Even though they were  
18 relabeled with his name and address.

19 MR. O'NEIL: I have nothing  
20 further. Thank you for your patience.

21 VIDEOGRAPHER: The time is  
22 3:41 PM. We're going off the record.

23 (The deposition concluded at 3:41 PM.)

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\_\_\_\_\_

MELODY MILLETT

Subscribed and Sworn to before

me this \_\_\_\_\_ day of \_\_\_\_\_,

20\_\_.

\_\_\_\_\_

Notary Public

County of \_\_\_\_\_

State of \_\_\_\_\_

Millett v. TrueLink

C E R T I F I C A T E

I, Nissa M. Sharp, a Certified  
Shorthand Reporter of the State of Kansas, do  
hereby certify:

That prior to being examined the  
witness was by me duly sworn;

That said deposition was taken down by  
me in shorthand at the time and place  
hereinbefore stated and was thereafter reduced  
to writing under my direction;

That I am not a relative or employee  
or attorney or counsel of any of the parties, or  
a relative or employee of such attorney or  
counsel, or financially interested in the  
action.

WITNESS my hand and seal this \_\_\_\_\_  
day of \_\_\_\_\_ 20 \_\_\_\_.

\_\_\_\_\_  
Nissa M. Sharp, CSR, CCR #528



1 July 19, 2007

2  
3 Mrs. Melody Millett  
c/o Ms. B. Joyce Yeager  
4 YEAGER LAW FIRM, LLC  
City Center Square, 26th Floor  
5 1100 Main Street  
Kansas City, Missouri 64105

6  
7 RE: Millett v. TrueLink

8  
9 Dear Mrs. Millett:

10 Enclosed is your deposition, given in the  
above-named matter, for your examination and  
signing. You will also find a signature page  
and an errata sheet for your convenience in  
making any changes or corrections.

11 Pursuant to the law, any change in "form or  
12 substance" of an answer shall be accompanied  
with a statement of the reason given by you for  
13 making such change.

14 Upon completion of your examination and reading,  
please sign the enclosed signature page and  
15 errata sheet and return them to this office in  
the enclosed self-addressed envelope. If we  
16 have not received the signed documents from you  
within 30 days from the date of this letter, an  
17 unsigned copy of your deposition will be filed.

18 Yours very truly,  
19 METROPOLITAN COURT REPORTERS, INC.

20  
21  
22  
23  
24  
25 By: Nissa M. Sharp, CSR, CCR #528

## ERRATA SHEET

RE: Millett v. TrueLink

DEPOSITION OF: MELODY MILLETT

PG/LN NO. CORRECTION REASON FOR CHANGE

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\_\_\_\_\_ I certify that I have read my deposition  
in the above case and I request that no changes  
be made.

\_\_\_\_\_ I certify that I have read my deposition  
in the above case and I request that the above  
changes be made.

SIGNATURE OF DEPONENT:

\_\_\_\_\_

DATED: \_\_\_\_\_